



Planning Policy Committee 10 December 2014

Community Infrastructure Levy Update

Purpose of report

The purpose of this report is to provide members with an update on work on the Community Infrastructure Levy (CIL) and to agree the next steps

Attachment(s)

Appendix 1 Draft Charging Schedule: Table of Responses
(due to the size of this document, this is available as a hard copy on request)

1.0 Background

- 1.1 The Community Infrastructure Levy is a charge on new development, which came into force through the Community Infrastructure Levy Regulations 2010. Local Authorities can decide whether or not they wish to implement CIL for their area. CIL is intended to help fund a range of infrastructure that is needed as a result of development and will run alongside Section 106 (s106) agreements. The regulations around s106 contributions will change in April 2015 when there will be restrictions on their use, and this is discussed later in the report.
- 1.2 East Northamptonshire Council decided to consider CIL and employed consultants BNP Paribas Real Estate (BNP) to prepare a Viability Study to assess what charges would be appropriate for the District. In order to charge a Community Infrastructure Levy, Local Authorities must produce a Charging Schedule setting out the charge rates for the area, based on an evidence base. The Council must also show that funding is necessary for infrastructure that is required to support the development of the area, as identified in up-to-date Development Plans. Work to date has been based on the adopted Core Spatial Strategy (June 2008), the Rural North, Oundle & Thrapston Plan (RNOTP) (July 2011), with a few saved policies from the Local Plan (1996).
- 1.3 Members are reminded that East Northamptonshire Council has now held 2 rounds of public consultation on the Community Infrastructure Levy:
 - The first stage was the publication of a Preliminary Draft Charging Schedule (PDCS), which was consulted upon from 9 November to 21 December 2012
 - The second stage was the publication of a Draft Charging Schedule (DCS), which was consulted upon from 14 March 2014 to 28 April 2014.

Information about these consultations can be found at
<http://www.east-northamptonshire.gov.uk/cil>

2.0 Draft Charging Schedule Responses

- 2.1 19 consultees submitted responses to the Draft Charging Schedule consultation, with a further 3 consultees sending late comments or queries. It will be up to the examiner to determine whether they wish to consider any late representations.
- 2.2 A summary of the comments and the proposed responses is contained at Appendix 1 for information. It should be noted that BNP have provided responses to certain issues and those responses are clearly identified. The table is colour coded to assist interpretation: Green - Council responses; Orange - BNP responses; Red - Comments connected to awaited Legal

Advice; Yellow - Comments on other documents (i.e. not on the Draft Charging Schedule).

Comments were received on various issues, and primarily related to :

- Queries and concerns about the BNP Paribas Real Estate Viability Study, including issues about the methodology
- Issues with Charging Areas and Charges
- Issues with the draft r123 List (list of infrastructure items proposed to be funded by CIL)
- Issues about CIL spending and infrastructure priorities
- Support for an Instalment Policy
- Concerns about proposed Instalment timings and amounts
- Points about Exemptions and Relief from CIL charges

2.3 At the joint meeting of the Planning Policy Committee and Policy and Resources Committee on 9 December 2013, it was agreed that all responses to the Draft Charging Schedule Consultation would be forwarded straight onto Examination, without coming back to committee. The Table of Responses (Appendix 1) is therefore provided for information, rather than for endorsement. The focus of this committee report is to highlight that, following consultation, there have been a number of issues and changes, which have required further detailed investigation and consideration by officers and also BNP. This report therefore touches on the key points in section 3.0 and provides comments on them in section 4.0, before proposing next steps at 5.0.

3.0 CIL: Key Points

3.1 Issue 1: Use of s106

The CIL regulations introduce changes to the way that s106 planning agreements are used. When the Levy is introduced (and nationally from April 2015 if no Levy is in place), the regulations restrict the use of pooled contributions towards items of infrastructure. At that point, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, no more can be sought through a section 106 agreement. Where a section 106 agreement makes provision for a number of staged payments as part of a planning obligation, these payments will collectively count as a single obligation in relation to the pooling restriction. For infrastructure that is not capable of being funded by the levy, e.g. affordable housing which falls outside the remit of CIL, and other types of obligations not related to infrastructure, e.g. use/ownership of land, local planning authorities are not restricted in terms of the numbers of obligations that may be pooled or sought. With the scaling back of s106 agreements, CIL is therefore intended to become the key mechanism by which new development contributes towards the provision of required infrastructure.

The issue is how should the CIL regulations and guidance be interpreted in connection with s106 pooling and use of s106/CIL?

3.2 Issue 2: R123 List

As directed by legislation, the CIL monies accrued by a council can only be used to fund infrastructure which is listed on the Council's Regulation 123 list. Known as the 'r123 list', the draft list identifies the infrastructure needed to support growth in the District, which it is proposed could be wholly or partly funded by CIL. Items can only be added to the r123 list if there is evidence of need (via ENC's up-to-date Development Plan documents) and cost estimates have been provided. It should be noted that the order of the r123 list does not indicate any priority for allocation of CIL receipts, nor guarantee that funding from CIL will be forthcoming.

Contributions for items contained within the r123 list may not be asked for by a s106 agreement to prevent "double dipping".

The Council may amend the r123 list over time. However, the Council must carry out consultation if any change is made, but that consultation is proportionate to the changes proposed. Members are reminded that a large amount of information has fed into the preparation of the current draft r123 list, which included information obtained from government agencies, local authorities, organisations and town and parish councils.

This issue is connected to Issue 1 “pooling of contributions” and covers what should be on the draft r123 list and how should it be worded.

3.3 Issue 3: Funding Gap

The Council has identified that, even when taking into account other funding contributions towards infrastructure, such as grants etc., an estimated Infrastructure Funding Gap of approximately £34.6m exists towards the cost of infrastructure required to implement the current Development Plan.

It is anticipated that CIL receipts for the period from 1 April 2014 to 31 March 2021 will be approximately £8.5m (a maximum of 30% of this to be for Town and Parish Council allocation and CIL administration, as per the regulations). It is important to note that there will not necessarily be an increase in the individual financial contribution by developers from developments that currently are subject to s106 agreements. However, the overall level of contributions would increase as CIL will apply to schemes that do not currently contribute under s106 agreements.

The funding gap calculations and proposed CIL charge levels have been based upon evidence received from various sources. It should be noted that it is extremely difficult to forecast all infrastructure needs in advance, so an appropriate degree of caution should be factored into expectations. Ultimately the funding from CIL will be finite and if further infrastructure investment is required this will need to be funded from other sources e.g. Government grants, private sector or the Council. Northamptonshire County Council now wishes Highway items to be funded via s106 rather than CIL so do these items need to be removed from the funding calculations?

The issue is will these funding calculations need to be amended?

3.4 Issue 4: Development Plan

The current CIL work relates to the adopted Development Plan documents for the District (para 1.2). However, Members will be aware that following the Secretary of State’s approval of Rushden Lakes, work on reviewing the current adopted Core Strategy has now been able to progress, along with work to prepare the District’s Four Towns Plan. At the Joint Planning Committee on 18 December 2014, it is anticipated that Members will be asked to endorse a Pre-Submission Joint Core Strategy, in order for consultation to commence in early 2015. It is anticipated that the new Core Strategy will be adopted in December 2015. Likewise, the current proposed working timeline for the Four Towns Plan would see adoption of that document in September 2016.

The issue is do these timings impact the current work on CIL and is the adopted Core Strategy “up to date”?

4.0 Comments on Issues

4.1 The following section will consider the issues set out above. Issues 1, 2 and 3 are connected and are discussed together, as follows:

4.2 With the forthcoming changes limiting the use of s106 from April 2015, regardless of CIL being introduced or not, the focus is now very much on the interpretation of legislation and associated guidance, as the Council is unlikely to have an adopted CIL in place by that date. A number of Local Authorities across the country are currently trying to seek further clarification about how to interpret the Regulations and June 2014 Planning Practice Guidance on CIL, and East Northamptonshire Council is currently awaiting a legal opinion on this matter.

4.3 Members may recall that national Planning Practice Guidance is now all web-based and can be viewed at <http://planningguidance.planningportal.gov.uk> Paragraph: 097 Reference ID: 25-097-20140612 of the Community Infrastructure Levy guidance provides some relevant information. Two extracts are provided below with some of the key text underlined:

“When the levy is introduced (and nationally from April 2015), the regulations restrict the use of pooled contributions towards items that may be funded via the levy. At that point, no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy. Where a section 106 agreement makes provision for a number of staged payments as part of a planning obligation, these payments will collectively count as a single obligation in relation to the pooling restriction.”

“Where the regulation 123 list includes a generic type of infrastructure (such as ‘education’ or ‘transport’), section 106 contributions should not be sought on any specific projects in that category. Site-specific contributions should only be sought where this can be justified with reference to the underpinning evidence on infrastructure planning which was made publicly available at the charging schedule examination.

The charging authority’s proposed approach to section 106 contributions should be set out at examination and should be based on evidence. Where a regulation 123 list includes project-specific infrastructure, the charging authority should not seek any planning obligations in relation to that infrastructure”.

- 4.4 There are issues with the interpretation of the regulations and the guidance, in particular regarding “projects or types of infrastructure” – is it possible, for example, to collect 5 s106 for, say, a new primary school class at a specified named school (“a project”), plus a further 5 s106 for education infrastructure (“a type”)? Or, do the 5 contributions for the specified school class cancel out your ability to collect a further 5 s106 obligations for other primary school provision elsewhere in the District? In many cases (e.g. for education, library, Greenway contributions) 5 obligations have already been agreed since April 2010 and it is a matter of interpretation as to whether any further s106 obligations can be sought for these projects/types of infrastructure after April 2015. This is where the awaited legal opinion should assist.

Use of s106 and CIL is a very detailed, technical issue; however, the regulations and guidance set out how to avoid “double-dipping” i.e. using s106 and CIL for the same project or infrastructure type. If, once CIL is adopted, ENC’s draft r123 list contains “Higham town centre transport improvements”, for example, then a developer cannot also be asked to pay s106 contributions towards any Higham transport improvement in Higham town centre. If the draft r123 list has a generic item, for example “Libraries”, then a developer cannot be asked to pay s106 contributions towards the provision of any library or library improvement. The use of s106 and CIL must be mutually exclusive and the draft r123 needs to be very clearly worded to avoid any potential confusion.

- 4.5 This query also then relates to the response received from Northamptonshire County Council - Highways, which now asks that Chowns Mill be removed from the r123 List and be paid for through s106 instead. The reasoning states that *“the CIL receipts for East Northamptonshire will not be sufficient to finance the scheme and inclusion in the list will limit the level of developers’ contributions that could be collected towards the scheme”*. In relation to this response, it is important to remind members that CIL is not intended to fund the full cost of infrastructure. It is also important to note that CIL is a set fee that will be required from developers, whilst s106 will remain subject to negotiation. There is no guarantee that s106 will therefore deliver more funds towards this project than CIL, however, it does guarantee any monies agreed by s106 can only be spent on that project rather than go into the general CIL ‘pot’ to be spent on r123 items at Members discretion. Members could choose to prioritise CIL spending on this particular project, should they wish. There are also issues of timing of receipts that need to be considered concerning both CIL and s106 and also the fact that there are already existing signed s106 that will already be counting towards the maximum 5 contributions towards Chowns Mill. Discussion with Northamptonshire County Council is ongoing on this particular issue and again, this is where the legal opinion on how s106 and CIL can be applied is important.

- 4.6 As a final point on r123, Members are also reminded that any changes to items on the draft r123

may also trigger the need for further viability work to be undertaken. Should a project receive major funding from another funding source, for example, this might lead to either less or no requirement for funding through CIL to pay towards it. If this change is considered to be significant, then further analysis may be required to ascertain whether that change would lead to any amendment to the CIL charges.

- 4.7 Issue 4: Development Plan timetable and content has been raised as a potential issue and Members will be aware that the new Core Strategy is currently in preparation and alongside this will be a new Infrastructure Delivery Plan. To date, the current work on CIL is based on the existing adopted Development Plan documents (para 1.2) and a bespoke Infrastructure Delivery Plan, which was prepared and published (March 2014). Plan-making is a constant, moving process and there will always be updates and changes to policies, plans and documents coming forward. The current CIL work is based on the adopted Development Plan documents, which are the most up-to-date plans for the area. It is recognised that with forthcoming plans may come some changes in infrastructure requirements etc. However, the Core Strategy will not be adopted until potentially December 2015. The timeline for the Four Towns Plan will flow from the Core Strategy. If work was halted on CIL until the Core Strategy is completed, there will be a delay to the Council's ability to collect CIL and fund infrastructure, whilst still being restricted by the changes to s106 agreements. It should also be highlighted that BNP, in the Viability Study work for East Northamptonshire, proposed a review of that Study in circa. 2016 to assess any economic changes etc that may impact the current proposed Draft Charging Schedule. The emerging new Development Plan documents do not in themselves at present prevent the existing work on CIL from continuing. However, there is a further connected issue. BNP are currently carrying out viability work for the emerging Core Strategy, and should this significantly differ from the BNP Viability Study previously undertaken for East Northamptonshire, this could provide any objectors with an argument that the Council's evidence base is not sufficiently up-to-date and is inconsistent with the recent work on the emerging Core Strategy. This could present an issue at ENC's CIL Examination.

5.0 Next Steps

- 5.1 Issues 1-3 are connected to the awaited legal advice, therefore until that has been received a set course of action cannot be confirmed. However, some potential implications can be stated at this stage:

If Chowns Mill is removed from the draft r123 list then this would trigger the need to carry out further work and formal consultation, as :

- a) it changes the draft r123 list significantly, and
- b) it is the largest financial project on the current draft r123 list, so would require the BNP Viability Study work also to be reviewed to see if this change has implications for the charges being proposed across the district. This will also have implications for funding gap calculations.

BNP have advised that, should Chowns Mill be removed from the draft r123 list, then work on checking and updating the Viability Study cannot be commenced until the New Year, due to outstanding work commitments. BNP estimate the further viability work could potentially be completed by the end of February 2015. However, any changes would then require amendments to the rest of the suite of CIL documents, which would involve further officer time, in addition to the running of further CIL consultation. All of this would obviously delay the CIL work by several months.

- 5.2 Another point is what would happen if the Council were to retain Chowns Mill in the draft r123 List, but Northamptonshire County Council still wished it to be removed and funded through s106 instead? Whilst the County Council's comment was submitted late, it seems most likely that an Inspector would wish to consider their view. At Examination, the Council will have to explain how it has considered consultation responses and how it has worked with the other authority, if they are in a two-tier authority area. Ignoring the County Council's point of view would therefore not be a sensible approach and could jeopardise the Examination.
- 5.3 Issue 4 in respect of preparation of newer plans should in itself not be a major issue at present,

however as the plan progresses this is likely to become more of an issue. This will need to be kept under review. The more significant issue is that the emerging plan will be accompanied by a new Viability Study, which might conflict with the Council's evidence base. It is proposed that this aspect be kept under close review to ascertain any potential implications of that emerging work, with BNP being commissioned to undertake further viability work for the East Northamptonshire CIL, if required.

5.4 Following all of this, the next steps are now considered to be :

- Await legal advice
- Consider legal advice
- Discuss specific Chowns Mill issue and agree way forward on that with Northamptonshire County Council
- If changes made to draft r123, commission BNP to carry out further analysis and review of Viability Study*
- If emerging Core Strategy viability work raises any potential issues of inconsistency, commission BNP to carry out further analysis and review of Viability Study*
- Consider results and implications of any further BNP review work carried out for ENC**
- If appropriate, Prepare Modifications
- Carry out Proposed Modifications Consultation or Amended Draft Charging Schedule Consultation (consultation period must be between 4 and 6 weeks)
- Following consultation, officers consider responses and Submit for Examination
- Examination

**It should be noted that two issues are raised above that might lead to the need for further viability work to be undertaken by BNP, however they would only be expected to review their existing Study once i.e. it would not necessitate two reviews by BNP.*

*** If a new Study amends the Draft Charging Schedule figures significantly, Members may need to consider if they wish to still proceed with CIL at this stage.*

6.0 Conclusion

6.1 The report is provided for members' information and consideration, in order to seek a way forward and agree the next steps.

7.0 Equality and Diversity Implications

7.1 There are no equality and diversity implications arising from this report

8.0 Legal Implications

8.1 Legal advice is currently being awaited on technical issues and interpretation regarding s106 and CIL

9.0 Risk Management

9.1 Current Risks:

- Ignoring consultee responses could jeopardise the future CIL examination
- Misinterpretation of CIL regulations and guidance could jeopardise CIL examination; make the future delivery of s106 more difficult and open to legal challenge after April 2015; and make future delivery of CIL open to challenge once adopted.

Risks from non adoption of CIL:

- Non-delivery of infrastructure projects where pooling of contributions from more than five sites is required or has already been reached. This will effect both very large projects and smaller projects which would benefit a wider area than can be justified by site specific s106 contributions

- In a tight economic climate it is probable that more s106 agreements will come back for renegotiation on an individual site viability basis, which could reduce infrastructure funding even further
- Reputational risk with Town and Parish Councils who are expecting income from CIL
- Risk if we do not pass examination or major changes are required by the inspector, further delays to process (and associated additional resources for potential re-consultations etc) will ensue. Examination may also change CIL charging rates which would impact on projected income levels and infrastructure delivery

Implementation risks:

If decide to adopt CIL, in due course procedures will be needed to mitigate for:

- Having appropriate governance arrangements plus staffing, systems and processes in place by implementation date
- Council not having most cost effective collection methods so exceeding the statutory limit if 5% of income on administration or unnecessarily reducing possible resources to spend on infrastructure

10.0 Resource and Financial Implications

- 10.1 Should further work be required from consultants, additional financial resources are likely to be required.

The infrastructure funding gap will need to be addressed. It is unclear how this will be addressed without CIL, as CIL will be an important part of the package to fund infrastructure. It is unlikely to be the only part of the funding package though, with infrastructure also requiring funding from Government, the private sector and local councils.

Need to build into prioritisation/governance process an examination of alternative (external) funding sources

ENC can direct CIL monies to meet its greatest priorities. CIL is easier to forecast making any match spending from ENC Capital Programme easier to schedule

More autonomy to Town and Parish Councils to meet their community needs

Will need to allow for resources for collection and governance

Will need to provide for costs of any further viability work, consultation and examination for CIL

(Note: The Planning Inspectorate advise examination costs for a 1 or 2 day CIL hearing would be somewhere in the region of £15-20k, but this could be lower or higher depending on the complexity of the issues etc. The Viability Consultants estimated charges would be approx. £5-7,500 excl. VAT & expenses, again this may vary)

11.0 Constitutional Implications

- 11.1 None

12.0 Corporate Outcomes

- 12.1 The relevant Corporate Outcomes are:

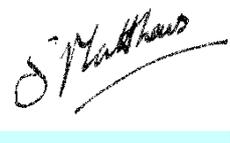
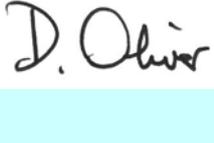
- Good quality of life –sustainable, clean, healthy, safe – providing funding for infrastructure which supports these objectives

- Effective partnership working - working with other organisations to secure infrastructure
- Strong community leadership – providing funding for local communities and consulting communities on infrastructure needs

13.0 Recommendation

13.1 Members to note progress and approve a way forward.

(Reason – to provide an update for Members’ information and to seek progress on CIL)

Legal	Power:	<ul style="list-style-type: none"> • Planning Act 2008 & Localism Act 2011 • The Community Infrastructure Levy Regulations 2010 • The Community Infrastructure Levy (Amendment) Regulations 2011 • The Community Infrastructure Levy (Amendment) Regulations 2012 • The Community Infrastructure Levy (Amendment) Regulations 2013 • The Community Infrastructure Levy (Amendment) Regulations 2014 • Community Infrastructure Levy Statutory Guidance (June 2014) 			
	Other considerations:				
Background Papers:		Planning Policy Committee - 12 December 2011 and 22 October 2012 Joint meeting of Planning Policy Committee and Policy and Resources Committee – 9 December 2013			
Person Originating Report:		Karen Britton – Planning Policy and Conservation Manager Extn: 2142 kbritton@east-northamptonshire.gov.uk			
Date: 17.11.14					
CFO 28/11/14		MO 28/11/14		CX 28/11/14	

Summary of representations and responses to the Draft Charging Schedule (DCS) Consultation									
Colour Coding: Green - Council responses; Orange - BNP responses; Red - Comments connected to the awaited Legal Advice; Yellow - Comments on other documents									
Rep No.	Rep sub No.	Name	Organisation name	Document	Summary comment	Responses from BNP & ENC - where BNP have made comments it will state BNP -	Proposed Changes to documents		
1	1	Paul Tame	NFU	Draft Charging Schedule	Issue with CIL Rates on page 1 of draft charging schedule. With a rapidly growing population, the pressures on land use are greater than ever before and in a time of food shortage and rising costs for consumers farmers need to become more productive.	Noted	None		
1	2	Paul Tame	NFU	Draft Charging Schedule	After a long period of poor investment in the industry due to low farming returns, we are now seeing a rise in commodity prices; this along with the rising value of land has meant that farmers are now in a better position to invest in their farming enterprises. Farmers will be seeking permission, for instance, for new, larger agricultural buildings, creating new housing for succession, retirement and expansion of businesses and diversification with a view to remain viable and to keep up with today's environmental and welfare conditions.	Noted	None		
1	3	Paul Tame	NFU	Draft Charging Schedule	Farmers also need to respond to regulatory changes. Nitrate Vulnerable Zones, for example, will require farmers to store slurry for longer periods over the winter months and this will require much larger slurry tanks and lagoons to be constructed over the next two to three years.	Noted	None		
1	4	Paul Tame	NFU	Draft Charging Schedule	Agricultural developments place no or in a few cases a very limited extra burden upon infrastructure. The CIL is essentially a levy on the enhanced value of development land. There is no enhanced land value with agricultural development and therefore the CIL would have to be paid from revenue making all most agricultural development unviable.	BNP- Land for these uses are likely to be rural exception sites and therefore would be low value, thereby making such developments more viable. It is also noted that such uses will still require infrastructure to support them and in this regard it is considered reasonable to assume that they would contribute towards CIL which would fund infrastructure. We would also point to the very low proportion of costs that CIL will represent less than 2% of development costs.	None		
1	5	Paul Tame	NFU	Draft Charging Schedule	In the Community Infrastructure Levy – Draft Charging Schedule agriculture is not included and therefore has no set charge. To ensure a clear and fair charging schedule we suggest that the following wording is used for Agriculture, Agriculture Tied Houses and Barn Conversions. "Development type: Agricultural Buildings, Agriculture Tied Housing and Barn Conversions. Proposed CIL rate per Sq. m: £0"	BNP- Agricultural Buildings are unlikely to attract a CIL charge under the proposed Draft Charging Schedule. We do not consider it appropriate to have a rate of £0 per sq m for Agricultural Tied Housing and Barn Conversions as there is no mechanism in place to ensure that these types of development would remain in agricultural use- unless it was to be included by the Council as part of the S106 agreement. There is no evidence provided by the NFU to support a NIL rate for any of these uses, and we therefore do not consider it appropriate to amend the Draft Charging Schedule.	None		
1	6	Paul Tame	NFU	Draft Charging Schedule	Currently in the Community Infrastructure Levy in East Northamptonshire houses will incur a charge of between £50 and £112.50 per square metre; given the importance of agriculture within this rural area there should be an exemption for all agricultural buildings, agriculturally tied buildings and any barn conversions.	BNP- see above. Barn conversions are often lucrative residential developments, attracting high values.	None		
1	7	Paul Tame	NFU	Draft Charging Schedule	For agriculture to become sustainable in the future it will be essential that developments including all agriculture buildings and structures, agriculturally tied buildings and any barn conversions are able to gain planning permission easily and without any additional costs.	see comments above	None		
2	1	Gill Cowie	Bedford Borough Council	Draft Charging Schedule	I am writing to let you know that we have no comments on the published CIL draft charging schedule.	Noted	None		
3	1	Richard Heathcote (GL Hearn)	On behalf of Gladman Developments	BNP Paribas Viability Study	Viability Study - GL Hearn identify a number of very detailed issues relating to concerns over the methodology of the BNP Viability Study. This includes concerns with BNP's approach to densities, benchmark land values, affordable housing, marketing and disposal costs, development period, development margin, build costs, external works, Code for Sustainable Homes, s106 assumptions, contingency and bank funding costs. They also say that it appears that no copies of residential appraisal summaries have been appended to the study, as has been done for the commercial site appraisals. Without the inclusion of the associated appraisal summaries for the residential typical sites the ability to make meaningful representations is restricted. As such the consultation is only of limited value. The result is typically that appraisals that could have been provided at the preliminary stage are subsequently provided at the draft stage unfortunately in this case we have only now received instructions from our client as they have only recently acquired interests in your council area. Given these appraisals must have been completed to produce the BNP Paribas report I fail to see any justification for not appending these to the viability assessments at this stage as it would significantly add to the transparency of the consultation which would clearly be of benefit to all. Suggest that your council should reconsider providing the appraisal summary information at this stage of the consultation process rather than later to avoid any errors or omissions contained therein being carried over to the later stages of consultation and any subsequent examination.	BNP- The Council confirm that the model used is the HCA Eat model, which is commercially available. They have also provided information of all inputs used in the residential appraisals in order to formulate the Draft Charging Schedule and therefore we do not consider the appraisal results to add any additional meaningful information that would affect the proposed CIL charges. Should GL Hearn have any issues with regards to the inputs adopted in the BNPPRE study we are happy to review these.	None		
4	1	Terry Begley	Corby Borough Council	BNP Paribas Viability Study	It is noted that the viability studies produced by BNP Paribas consider that office, industrial and warehousing development was unlikely to generate positive residual values. Despite this viability evidence, East Northamptonshire Council considers that the level of planning applications received for B1, B2 and B8 floorspace in the last few years demonstrates that there is demand for such space and that a nominal charge can be supported without putting the majority of development proposed at risk.	On page 5, para 1.3 of the BNP Viability Report, BNP state that "Our appraisals of developments of office, industrial and warehousing floorspace (B1, B2 and B8 uses) indicate that speculative development of such uses is unlikely to generate positive residual land values. However, we understand that the Council has received a number of planning applications for such floorspace in the last few years, some of which have been implemented. This indicates that there is demand for such space and that when developed for an owner occupier or on the basis of a pre-let such development is viable. In this regard we would recommend that the council considers adopting a nil or nominal rate of no more than £20 per square metre on such space in the District". BNP advise at footnote 3, page 5 BNP Viability Report that "A nominal rate of £20 per square metre is unlikely to be a significant factor in developers' decision making and could be absorbed without having a significant impact on viability across the District, being no more than 2% of development costs". ENC Members support a nominal charge being made.	None		
4	2	Terry Begley	Corby Borough Council	Draft Charging Schedule	The area around Rockingham Motor Racing Circuits is being promoted by both authorities as a strategic employment area as part of the Local Plan. The land which straddles the administrative boundaries of Corby and East Northamptonshire councils has been recognised as having huge potential to act as an economic driver for the county's growth ambitions and support good quality employment opportunities, particularly high performance engineering and motor sport sector	Noted	None		
4	3	Terry Begley	Corby Borough Council	Draft Charging Schedule	The development framework for Rockingham identified a number of barriers to delivery of the strategic employment area which may make the current development value marginal, such as contamination and access. The lack of development activity and the Council's agreement to work jointly to investigate ways of taking forward the development framework is an indication that land around Rockingham Motor Racing Circuits may not be able to contribute to CIL as well as the on-site s106 requirements associated with development whilst still remaining viable.	The figure of £20 per square metre is a nominal rate. BNP advise that this rate is unlikely to be a significant factor in developers' decision making and could be absorbed without having a significant impact on viability across the District, being no more than 2% of development costs (as response to 4.1 above)	None		
4	4	Terry Begley	Corby Borough Council	Draft Charging Schedule	National guidance does not explicitly state that if development is not viable then a zero rate should be set. It is accepted that nominal CIL rate of £20 is unlikely to be a determining factor in respect to viability. Even so, the guidance is clear that the rate should be consistent with the evidence. The viability evidence produced by BNP Paribas indicates that office, industrial and warehousing development was unlikely to generate positive residual values.	As response to 4.1 above	None		
4	5	Terry Begley	Corby Borough Council	Draft Charging Schedule	Work undertaken by Corby Borough Council and East Northamptonshire Council in partnership with the North Northamptonshire Development Company identified substantial site specific infrastructure requirements directly related to land around Rockingham Motor Racing Circuit. The evidence clearly demonstrates that the scope to impose a charge on office, industrial and warehousing development is severely limited on an area of land that is being promoted by both authorities as a key strategic employment location as part of the Local Plan.	As response to 4.1 above	None		
4	6	Terry Begley	Corby Borough Council	Draft Charging Schedule	The CIL Regulations allow different rates of CIL to be set for different locations to take account of variations in economic viability. It is recommended that East Northamptonshire Council show and explains why the CIL charge for office, industrial and warehousing development within the Rockingham Enterprise Area has not been reduced to zero to reflect the evidence and ensure consistency with the nil rates being proposed by Corby Borough Council.	As response to 4.1 above	None		

ENC - Responses to the PDCS

5	1	Sandra Mitcham	Higham Ferrers Town Council	Preliminary Draft Open Space SPD	The Town Council strongly supports paragraph 8.7. The Town or Parish Council should be asked first if they wish to take over new open space that is being provided in new developments. Residents do not like the Management Company approach, and in the experience of the Council these types of schemes do not work well as residents do not like to pay the additional fee required and there is confusion about responsibilities. Additionally Town or Parish Councils exist in perpetuity but management companies can come and go. In Stanwick the parish council, in order to retain an area for community use, had no option but to buy a piece of open space to from a management company as they were trying to sell it on the open market.	Noted	None		
5	2	Sandra Mitcham	Higham Ferrers Town Council	Preliminary Draft Open Space SPD	Town Council would like to see the addition of Cemetery provision in the SPD. With an aging population in East Northamptonshire as shown by the recent census, there is a high demand for space and it is known that Higham Ferrers and Rushden both have a shortage of cemetery space.	Cemetery and Churchyard provision are not addressed by the preliminary draft Open Space SPD. Provision and associated issues are very locally specific and therefore it is proposed that this typology should be discussed with the relevant authority and will be considered on a case by case basis. Town/Parish Councils may also wish to pursue this issue through a Neighbourhood Plan.	None		
5	3	Sandra Mitcham	Higham Ferrers Town Council	Preliminary Draft S106 SPD	The Town Council supports the Affordable Housing requirement of 30% in developments over 15 dwellings in Higham Ferrers.	Noted	None		
5	4	Sandra Mitcham	Higham Ferrers Town Council	Preliminary Draft S106 SPD	The Council notes the provision for primary education, but is concerned at the cumulative impact of a number of smaller developments where there is no requirement for s106.	Noted	None		
5	5	Sandra Mitcham	Higham Ferrers Town Council	Preliminary Draft S106 SPD	There should be a requirement for Cemetery Provision included.	Cemetery and Churchyard provision are not addressed by the preliminary draft S106 SPD. Provision and associated issues are very locally specific and therefore it is proposed that this typology should be discussed with the relevant authority and will be considered on a case by case basis. Town/Parish Councils may also wish to pursue this issue through a Neighbourhood Plan.	None		
5	6	Sandra Mitcham	Higham Ferrers Town Council	CIL Infrastructure Document	Paragraph 4.6. Public Realm- Higham Ferrers Public Realm Improvements are missing from the table on page 10, but are covered in the appendix.	The purpose of the Infrastructure Document is to demonstrate the range of infrastructure required and that there is a funding gap. It does not list projects by priority and many projects in Appendix 3 are not listed within the main body of the document.	None		
5	7	Sandra Mitcham	Higham Ferrers Town Council	CIL Infrastructure Document	Improvements to Chowns Mill are already required to cope with traffic flows, so they are essential to provide for future growth and are a top priority.	Noted	None		
5	8	Sandra Mitcham	Higham Ferrers Town Council	Draft Charging Schedule	The Town Council are disappointed that their previous request to increase the proposed CIL rate for residential development has not changed from £50 per sq metre, as housing tends to command a higher price than others on the same charging rate.	BNP have considered all responses and reviewed their figures, amending them where new evidence supports this. In this case, evidence did not support any change.	None		
5	9	Sandra Mitcham	Higham Ferrers Town Council	Draft Charging Schedule	The Council is pleased to see an amendment to the charging schedule for the approach to retail i.e. the threshold sizes where charges will be made. They support this approach.	Noted	None		
6	1	Roslyn Deeming	Natural England	Draft Charging Schedule	Natural England is not a service provider, nor do we have detailed knowledge of infrastructure requirements of the area concerned. However, we note that the National Planning Policy Framework Para 114 states "Local planning authorities should set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure." We view CIL as playing an important role in delivering such a strategic approach. With the above in mind, we welcome the inclusion of the Green Infrastructure projects which have been included in the CIL Draft Charging Schedule.	Noted	None		
7	1	Mark Hunter	Chelveston-cum-Caldecott Parish Council	Draft Charging Schedule	The Parish Council supports the proposed Draft Charging Schedule and looks forward to its introduction at the earliest possible opportunity, as Bedford Borough Council has done, so as to avoid a rush of applications being brought forward attempting to "beat the deadline".	Noted	None		
8	1	Mark White	English Heritage	Draft Charging Schedule	English Heritage does not wish to make detailed comments on the level at which the Community Infrastructure Levy (CIL) charge is set for East Northamptonshire and did not comment on the preceding Preliminary Draft Charging Schedule which was consulted upon in December 2012. We recognise, however, that it will be important to ensure that the charge does not have an adverse effect on the protection that the Council affords to heritage assets. The National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development and clearly identifies the historic environment as a relevant matter for consideration in achieving this.	Noted	None		
8	2	Mark White	English Heritage	Draft Charging Schedule	In certain contexts, it may be appropriate to consider exemptions or discretionary relief from CIL, where the viable future of a heritage asset is at issue, or its significance is threatened by intrusive development.	Mandatory and discretionary exemptions and reliefs from CIL are set out in the CIL regulations. Individual charging authorities are not able to set additional reliefs. However, as noted in the Draft Charging Schedule (page 4), the Council will consider whether to adopt exceptional circumstances relief on the implementation of CIL. This would be open to all developments, not just on heritage assets.	None		
8	3	Mark White	English Heritage	Draft Charging Schedule	With regard to the Draft CIL Regulation 123 List, we note that CIL money is not specifically identified for heritage-related infrastructure provision. However, it is noted that Public Realm is included on the Draft R123 List as well as the Draft Charging Schedule, the Background Document and the Infrastructure Document; specifically Town centre public realm improvements (excluding local, site related improvements), Rushden High Street and Oundle town centre. Five of the District's six town centres include Conservation Areas, and all include heritage assets. We understand that heritage assets will continue, for the present, to be eligible for s106 contributions; the important issue will be to ensure that this aspect is not vulnerable to being sacrificed as the last call on a prospective developer's financial contributions and that any funding for Town Centre public realm improvements is complementary to the heritage assets in these areas.	Chester Farm is a specific heritage project listed on the CIL R123 list. Concerns noted.	None		
8	4	Mark White	English Heritage	Draft Charging Schedule	With regard to relief from CIL, we urge the Council to reserve the right to offer CIL relief for particular cases which affect heritage assets in order to avoid unintended harm to the historic environment through the application of CIL. For example, there may be instances where the requirement to pay CIL would threaten the viability of schemes designed to ensure the reuse of heritage assets identified as being 'at-risk' through enabling development.	see response to 8.2 above	None		
8	5	Mark White	English Heritage	Draft Charging Schedule	We do not wish to object to the draft schedule, but hope that there will be opportunities for discussion and flexibility in the future where significant heritage issues arise, to ensure heritage protection is sustained in accordance with the NPPF.	Noted, as response to 8.2 above.	None		
8	6	Mark White	English Heritage	Draft Charging Schedule	We also strongly advise that local conservation staff are involved throughout the further preparation and implementation of the Draft Charging Schedule as they are often best placed to advise on local historic environment issues.	Noted	None		
9	1	Ben Hunter	Northamptonshire County Council	Draft Charging Schedule	The County Council has been involved throughout the drafting of the R123 list and the identification of the funding gap. The County Council supports the approach highlighted in the documents, and hopes to continue the regular involvement as the CIL adoption progresses. This will be especially necessary when it comes to the prioritisation of schemes once CIL receipts start to be received.	Noted	None		
9	2	Ben Hunter	Northamptonshire County Council	Preliminary Draft S106 SPD	The only omission that the County Council would be grateful to see included in the Supplementary Planning Document is the inclusion of Fire Hydrants as a planning condition or obligation, at an average rate of 1 per every 50 dwellings/5000sqm non-residential. Fire hydrants are very site specific and the County Council believes that their inclusion is necessary in order to make development acceptable in planning terms.	This response has been discussed with NCC and will be dealt with through the use of conditions	Amend Preliminary Draft S106 SPD to clarify		
10	1	Andrew Presland	East Northants Faith Group	Draft Charging Schedule	On the map on page 2, the rate proposed for developments in Great Addington (£112.50 per sq m) stands out from nearby parishes, which are all either £50 or £75 per sq m. Whilst this may be consistent with the results of the Viability Study, our experience (e.g. from past analyses of the relative wealth of the Church of England congregations) that Great Addington is largely on a par with Little Addington and Hargrave. It may be that those with more detailed knowledge of this issue (e.g. the local parish councils) think that the proposed rates reflect reality on the ground, but it seems to us that the current wide disparity in the figures risks distorting the housing market in the Great Addington area, by deterring development in Great Addington itself and encouraging it elsewhere.	The figures are based on available evidence. BNP have carried out further reviews for areas to the south of the District, due to some comments about whether the figures reflect the reality in certain parishes. The evidence supports the differences. Should CIL be implemented, it's impact will be monitored and kept under review.	None		
11	1	Philip McCrone	Laxton Parish Meeting	Draft Charging Schedule	Unhappy with residential geographical disparity - inequitable charging rates - huge disparity in levy rate broadly between the north and south. Strongly urge that the disparity of rate between residential properties in different areas be largely or wholly abolished in line with the levy principles that apply to other forms of "purchase tax".	CIL is not a purchase tax, but is paid by developers. It is based on viability evidence.	None		
11	2	Philip McCrone	Laxton Parish Meeting	Draft Charging Schedule	Unhappy with residential/commercial balance of levy - It is assumed that the application of "viability" principle has resulted in the category "offices, industrial and warehousing B1-B3 being assessed at a much lower rate than residential and only on the simple area basis. This would seem to be inequitable as the B1 to B3 category is instituted for the purposes of profitability whilst residences are a necessity which constantly require outlay only. It was felt that impediments to residential development must be as seriously considered as those to commercial ventures. Strongly urge that commercial properties, whose primary purpose is the creation of wealth, should carry a very much larger share of this tax burden.	BNP - Both residential and business development (classes B1,B2 and B8) types are developed for profitability. CIL is paid by the developer. BNP have determined the maximum CIL charges that each development type could support based on viability evidence. Without any return for the developer, it is unlikely that a development would be brought forward. Moreover, most developments require an element of profitability to be demonstrated in order to secure financing. Any "super profit" left in a scheme, over and above the fixed profit level is captured through the proposed CIL charges. Councils are required to consider the balance between viability and raising money for infrastructure based on their evidence base and in this context the Council considers it has reached an appropriate balance.	None		
12	1	Julia Baish	Kettering Borough Council	Draft Charging Schedule	Do not wish to make any comments at this stage.	Noted	None		
13	1	Steve Beard	Sport England	CIL R123 List	Sport England considered that the proposed listing on CIL R123 list bars any other contribution towards any Open Space or Sports and Leisure improvements. We do not understand the caveat excluding that etc... An explanation of this statement would help.	It is the intention to enable CIL money to be collected for sport and leisure facilities generally, whilst also enabling S106 to be collected for this type of provision where it is specifically required for an individual site, for example a large application might be of a size which would require certain facilities to be provided on site. ENC are currently awaiting legal advice on whether CIL and S106 can be collected for specific projects and types of projects within the same category, therefore this response may change once that is known.	None at this stage		

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13	2	Steve Beard	Sport England	CIL R123 List	The infrastructure delivery plan is based on a 2010 study (Robust and up to date?) with sports facilities from the study listed in the delivery plan, would it be preferable to specifically list those projects in s123? If not does the S123 list bar any other S106 contributions to any open space or sports facilities as stated in the S106 SPD Given the generic statement. Would the CIL contributions ever be of sufficient scale to provide a contribution to sports facilities, is other infrastructure essential for a development to proceed likely to take practical or political precedent? It is assumed that the exception relates to bespoke facilities, but it is our concern that the general statement in the R123 list will bar this request.	As response to 13.1 above, we are currently seeking some clarification over wording. However, at present our interpretation is that CIL can be collected generally, whilst also applying S106 for specific items where they are required for a site. However, CIL and S106 should not be collected from a developer for the same item. Should CIL be implemented, Members will then have to decide what the priorities for CIL spending are.	None at this stage		
14	1	Thomas Eggar	ASDA	Draft Charging Schedule	Under Regulation 14 of the Community Infrastructure Levy Regulations 2010 ("CIL Regulations") the Council's primary duty when setting the level of Community Infrastructure Levy ("CIL") charge is to strike an appropriate balance between the desirability of funding the cost of infrastructure required to support development from CIL and its potential effects on the economic viability of development. In our view, the approach taken to assessing the Charging Schedule does not achieve an appropriate balance between these two objectives. We wish to object to the approach taken to assessing the Charging Schedule on the following grounds: 1. The fact that the consultation study is now out of date - as a result of recent amendments to the Community Infrastructure Levy Regulations 2010. 2. the impact on policies enhancing economic performance; 3. the financial assumptions and viability assessments contained in the Council's Viability Study; 4. the proposal to split convenience and comparison retail development; 5. issues relating to State Aid; and 6. concerns about the Council's approach to setting CIL charges generally.	Noted	None		
14	2	Thomas Eggar	ASDA	Draft Charging Schedule	Impact of Community Infrastructure Levy (Amendment) Regulations 2014/385 As the Council will be aware, the Community Infrastructure Levy (Amendment) Regulations 2014/385 came into effect in February. These regulations have made a number of wide-reaching changes to the CIL regime, the most important of which, for the purposes of this email, are summarised below: • Regulation 14 has been amended so as to strengthen the obligations on the Council to objectively justify the adopted charging rates. Reg 14 now states that a Council "must strike an appropriate balance" as opposed to simply aiming to do so; • Examiners are now being asked to assess whether an appropriate balance has, in fact, been struck; • The Regulations governing payment in kind have been amended to allow local authorities to accept items of infrastructure as well as the transfer of land; • Draft Regulation 123 lists should now be made available much earlier in the rate-setting process and these will be capable of being examined at inquiry; • There have been significant changes to the various CIL exemptions; which will significantly affect the Council's expected levels of receipts. The Draft Charging Schedule, and the viability report on which it was based, do not consider the impact of these amendments and contain a number of assertions which are now incorrect. In particular, the viability assessment was drafted to enable the Council to "aim" to strike an appropriate balance between the desirability of funding the cost of infrastructure required to support development from CIL and its potential effects on the economic viability of development; it is not sufficiently detailed or well evidenced to establish that this balance has, objectively, been struck. We would urge the Council to undertake a further, more detailed, viability appraisal based on the CIL regime as it now is, and to re-consult on the draft charging schedule once the results of this second appraisal are available.	BNP - Regulation 14 requires that a charging authority, in setting levy rates, 'must strike an appropriate balance between' the desirability of funding infrastructure from the levy and 'the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area'. In this regard we consider that the proposed CIL rates strike that balance and are therefore in line with the updated CIL guidance. This is not a viability consideration. The Council notes the respondent's concern about the operation of the Council's Regulation 123 List. Whilst the Council is not required to publish its Regulation 123 List until it adopts its Charging Schedule, and whilst the Council understands that there is flexibility around what may be funded through CIL and what may be funded through planning obligations, the Council intends to be as transparent and reasonable as possible in the presentation of its Regulation 123 List in due course. We would highlight that the Council has published a copy of its draft R123 list with the DCS consultation. The Draft Charging schedule has been set in line with viability, any additional exemptions would be at the Charging Authorities discretion. We note that the strategic sites are being looked at in further detail by BNPPRE to determine any additional exemptions from CIL. However, this will be considered at a later date. The amendments to the CIL regulations from 2010 to 2014 have been carefully considered by the Local Charging Authority. We do not consider them to have affected the viability assessment.	None		
14	3	Thomas Eggar	ASDA	Draft Charging Schedule	Impact on policies enhancing economic performance We will not repeat the Council's strategic objectives contained in its Local Plan in full here, but in order to achieve its Vision and Overall Objectives, it will be important for the Council to set an appropriate CIL charge to encourage new development to come forward. An appropriate CIL charge will encourage new development and promote redevelopment to create employment and ensure a range of shopping choices for consumers and enhance the vitality and viability in district and local centres. The proposed retail CIL rates would discourage larger retail developments and would not ensure that the relevant retail and employment aims of the Vision and Overall Objectives are met. This could have the effect of reducing the range, variety and choice of retail shopping and, if no redevelopment or regeneration schemes are put forward, then existing buildings are unlikely to be refurbished and re-used. It is our view that if the retail charges set out in the Preliminary Draft Charging Schedule are adopted, there will be several consequences across the Borough that will put the Council's ability to achieve its key objectives at risk. For example: • All other forms of development will receive a significant subsidy at the expense of retail schemes; and • There will be a corresponding disincentive (and market distortion accordingly) to investment in this sector of the local economy. The Government is keen to encourage the creation of additional employment across the economy and the retail sector as a whole is one of the largest employers and the largest creator of new jobs at the present time as well as being one of the most dynamic and innovative sectors within the UK economy. Asda example 1 ASDA has a proven track record of investing in local communities and of creating jobs within these areas. For example, of the 123 colleagues recruited for the ASDA store in Tunbridge Wells, 76 colleagues (71%) were previously unemployed. The supporting papers do not acknowledge this trend nor do they fully assess the role of retail within the national economy. They simply assert that large scale retail is performing stronger in comparison to the other aspects of the retail sector and accordingly, it implies that large scale retail establishments have the capacity to pay potentially very large sums of CIL, whereas the Town Centre comparison and small convenience retail rates are much lower. Any CIL schedule that imposes a substantial CIL charge on superstores or supermarkets and a very low or nil rate on all other uses could effectively undermine the retail function of local and town centres, detracting from their viability and vitality as large scale retail developers would be discouraged by the imposition of CIL. Asda example 2 Asda stores regularly rejuvenate and regenerate existing centres, and the surrounding areas, and draw new shoppers to them, which benefits the existing retailers, and those who open stores in Asda-anchored centres in their wake. For example in 2006, Asda opened a store in Romford, transforming a derelict brownfield site through an extension of an existing retail mall and creating 347 jobs. This helped to propel Romford into the top 50 UK retailing cities. Indeed, due to the success of the store in attracting more footfall to that part of the town's Primary Shopping Area, the local authority redrew the town centre boundary to include the edge of centre Asda store into the heart of the Romford town centre.	BNP - As noted above- Regulation 14 requires that a charging authority, in setting levy rates, 'must strike an appropriate balance between' the desirability of funding infrastructure from the levy and 'the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area'. In this regard CIL rates have to be set according to viability. The impact on the Charging Authorities economic performance is not a viability consideration.	None		

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14	4	Thomas Eggar	ASDA	Draft Charging Schedule	<p>The financial assumptions and viability assessments contained in the Council's Viability Study</p> <p>We also have a number of concerns about the study BNP Paribas conducted in November 2013 (the "Viability Study").</p> <p>The Viability Study contains retail development assumptions that in our view are inadequate as they do not make sufficient allowance for the costs involved in obtaining planning permission for a development scheme.</p> <p>By excluding the true cost of residual planning for a commercial development, the Council has underestimated the true cost of retail developments and artificially inflated the residual land values used for the financial viability models. This will, in turn, have inflated the amount of CIL proposed for these uses.</p> <p>The Viability Study assumes rather low allowances for residual section 106 and section 278 agreements, in addition to CIL, that may be borne by retail developers. For convenience supermarkets and retail warehouses, £15 per sqf is permitted. This equates to approximately £165 per sqm.</p> <p>In reality, residual section 106 and section 278 contributions are likely to exceed these amounts for large scale retail developments.</p> <p>Although the Council will not be able to pool section 106 contributions once CIL is adopted, the types of commonly pooled contributions tend not to make up a large proportion of the contributions sought from commercial schemes - which are usually focussed on site specific highways and access works, employment and training contributions, environmental mitigation works and other, site specific, requirements. This is demonstrated by the Council's draft Regulation 123 list, which makes it clear that any site specific green infrastructure or network improvements, not listed, that are needed to mitigate the impact of the development and to make it acceptable in planning terms, may still be required to be funded through section 106 and section 278 agreements.</p>	<p>BNP - BNP Paribas Real Estate have included a charge of £165 per square metre for residual section 106 costs in convenience retail developments. It should be noted that contributions towards S106 costs will be scaled back as of April 2015 and at £165 per sq m the S106 assumption is higher than the proposed CIL charge of £100 per sq m.</p> <p>We note from the examiner's report from the London Borough of Merton paragraph 18 that, 'A significant assumption made for the inputs for all the retail types is that after the CIL is introduced, section 106 costs would be zero. This does not so much reflect an expectation that this would be the case, but more the difficulty of judging an appropriate input when S106 costs for site-specific works (such as highway access) would be likely to vary considerably from site-to-site. Assuming a fixed sum for S106 costs where circumstances vary widely would be no more accurate than the working assumption of zero costs. The approach is a reasonable choice in the circumstances, subject to a sufficient buffer in the overall assessment of viability.' As such, BNP considers these costs to be reasonable.</p>	None
14	5	Thomas Eggar	ASDA	Draft Charging Schedule	<p>Taking the example of a 5,000 sqm convenience supermarket used in the Viability Report, this 5,000sqm store, with total building costs of £5,543,450 would be expected to bear a CIL payment of £500,000 and, in addition, potentially fund all of the following potential costs:</p> <ul style="list-style-type: none"> • demolition, remediation and on site highways works • the cost of any off-site highways works required to make the development acceptable in planning terms including junction improvements, road widening schemes, new access roads, diversion orders and other highways works; • the cost of extending the Council's CCTV or public transport network to include the scheme (including the costs of creating new bus stops, real time information and providing new bus services to serve the site); • monitoring costs of compliance with employment/apprenticeship schemes and travel plans; • environmental off-set contributions to mitigate the loss of habitat or greenery caused by the scheme; • The cost of any remediation and decontamination works to be carried out by the council on the developer's behalf; • payments for town centre improvements intended to mitigate the impact of the development on the town centre or neighbouring areas; and • the costs incurred by the Council of maintaining any site specific infrastructure required by the development. <p>The Viability appraisal allows 0% of build costs for external works (554,345) and 5% of construction costs for any contingency payments (£277,172.50), equating to a budget of £831,517.50 to meet all of these costs.</p> <p>To put this in context:</p> <ul style="list-style-type: none"> • the section 106 Contributions incurred in relation to a c.3,000sqm food store in Ware, Hertfordshire amounted to £871,800. These sums related to bus service contributions; development of a community centre, nursery; education contributions; various highway safety improvements; youth service contribution; residents parking schemes and open space contribution. In addition to these contributions, green travel plan contributions, monitoring fees and architectural lighting on pedestrian routes between the store and city centre were also incurred. • the section 106 Contributions incurred in relation to a e.G.700 sqm food store in Newhaven, East Sussex amounted to £1,345,544. These sums related to contributions for improvements to and an extension of the local bus network; economic initiatives; contributions for relocating local habitats; improvement of recreational space; recycling contributions; residential and retail travel plan auditing; transportation and town centre contributions. <p>With this in mind, we again, suggest that the Council has significantly underestimated the impact of CIL on the viability of such developments and request that the underlying viability evidence be revised accordingly.</p>	<p>BNP - BNP Paribas Real Estate have included a charge of £165 per square metre for residual section 106 costs in retail developments in order to account for S106 liability. It should be noted that contributions towards S106 costs will be scaled back as of April 2015 and replaced by CIL to a large extent. Therefore full previous S106 requirements sought would not be required in addition to CIL. The costs identified by Asda may be lower as existing floor space would be discounted because CIL would apply to the net additional floorspace.</p> <p>With regards to abnormal costs, an allowance has been made for demolition. However, it is not possible to incorporate a cost for remediation of brownfield sites or land assembly and holding costs within an area wide viability study. These costs are site specific and as such will vary across all sites. The main reason for allowing a buffer from the maximum CIL charge is to account for differences between sites. The Bristol CIL examiner identified this at Para 26 of his report dated July 2012, stating that, 'By definition, the CIL cannot make allowance for abnormal, site specific, costs. The rates have to be based on a generic analysis of a variety of size and type of schemes across the area, taking into account average local build costs, not the individual circumstances of particular sites. The fact that a few specific schemes that are already marginal may become unviable in certain locations should not have a significant impact on the delivery of new housing across the city to meet the requirements of the adopted CS.' In addition it is considered that the costs associated with the remediation of such sites would be taken into consideration in the land value.</p>	None
14	6	Thomas Eggar	ASDA	Draft Charging Schedule	<p>The proposal to split convenience and comparison retail development</p> <p>It is our view that the Council's proposal to apply differing CIL rates to 'comparison' and 'convenience' retail falls outside of the scope of the rate differentials permitted in the CIL regulations.</p> <p>Clause 13(1) of the CIL Regulations states that a charging authority may set different rates for different zone in which development would be situated; and/or by reference to different intended uses of development within those zones and/or by reference to the size of those schemes.</p> <p>While the CIL regulations do not expressly define 'use', they regularly adopt definitions from the planning system and other planning legislation (in particular the Town and Country Planning Act 1990 (as amended) and the Planning Act 2008). As the Use Classes Order is widely accepted to be the starting point for definitions of Use within the planning system, it is reasonable to expect that the CIL Regulations reflects those definitions.</p> <p>It should be noted that Poole, Mid-Devon and Elmbridge Councils have withdrawn their proposals to charge large supermarkets a higher CIL rate than other retail development, on the grounds that this approach is potentially unlawful.</p> <p>In addition, the Council's proposal to distinguish 'comparison' and 'convenience' retail also poses practical problems for retail developers and the Council themselves in assessing the charge, as most supermarkets and superstores contain a mix of convenience and comparison floorspace. The Council's current proposals will potentially result in two different CIL rates being charged for floorspace within the same building or development. Such an approach adds undue complexity to the CIL calculations.</p>	<p>BNP - The CIL Regulations allow charging authorities to flexibly apply differential rates; to geographical areas, types of development and/or scales of development, or a combination of the above, where supported by viability evidence.</p> <p>The definition of "use" for this purpose is not tied to the classes of development in the Town and Country Planning Act (Use Classes) Order 1987, although this has been used as a reference point. Further it is noted that the Wycombe District Council CIL Charging Schedule, which was formally introduced from 1 November 2012, includes a separate CIL charge for such space. The inspectors report for the Wycombe CIL examination (10/09/12) explicitly stated that 'There is nothing in the CIL regulations to prevent differential rates for retail developments of different sizes, provided they are justified by the viability evidence and differing retail characteristics or zones.'</p> <p>The supporting viability study identifies that in current market conditions there is a marked difference between the ability of a convenience based supermarket, superstore and retail warehousing (over 280 sq m) to viably support CIL than that of a small comparison & all over retail (A1-A5) development; as a result a CIL charge for convenience based supermarkets and superstores and retail warehousing (over 280 square metres) is proposed and a nil rate for comparison and all other retail (A1-A5) development.</p> <p>It is acknowledged that size does not necessarily result in the higher values generated by convenience based supermarkets and superstores and retail warehousing uses. Rather, it is a combination of factors including:</p> <ul style="list-style-type: none"> - The availability of car parking; - The operational economics of supermarkets/superstores (these uses are known to be efficient at generating volume sales whilst having low operating costs); - The rents that retailers are willing to pay to occupy these units tend to be high (particularly with regard to comparison retailing as these locations will command prime rents in the borough); - The value which the investment market ascribe to such units is high, this is due to such units being occupied by operators with greater covenant strength, which results in lower yields being applied; and - Such large developments are also likely to come forward on sites which have lower existing use values i.e. a large majority of large retail units have historically been developed on former industrial sites and as a result a lower benchmark land value is achieved, which results in a higher surplus and consequently a potential for a higher CIL rate. 	None
14	7	Thomas Eggar	ASDA	Draft Charging Schedule	<p>State Aid</p> <p>We wish to bring it to your attention that there will be EU State Aid issues arising out of the setting of differential rates for different types of commercial entity within the same use class. Introducing such differential rates confers a selective economic advantage on certain retailers depending on the size of the shop they operate out of, or their type of business. For example, setting the levy for comparison retail schemes at a lower rate than an equivalent convenience retail scheme provides an economic advantage to comparison retailers. Alternatively, basing rate differentials on the size of a store favours smaller retailers over their larger competitors.</p> <p>As far as we are aware, the UK government has not applied for a block exemption for CIL. CIL charges do not form part of the UK's taxation system and there does not appear to be an exemption in place to cover any State Aid issues that may arise. With this in mind, we would be grateful if the Council adopted a flat levy rate for comparable sectors of the economy/use classes or, if it is not prepared to do so, providing an explanation as to why State Aid issues are not engaged by the setting of differential rates within use classes to the Inspector at the Inquiry.</p>	<p>BNP - Decisions on rates have been based on the viability evidence, not to give particular forms of development selective advantage and therefore there is no state aid issue.</p>	None

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14	8	Thomas Eggar	ASDA	Draft Charging Schedule	<p>Concerns about the Council's approach to setting CIL charges generally</p> <p>The stated purpose of CIL is to raise revenue for infrastructure necessary to serve development. CIL is intended to address the imbalance of raising funds for infrastructure under the section 106 route, where larger schemes have effectively subsidised minor developments. However, CIL does not replace the section 106 revenue stream - it will simply provide additional revenue for infrastructure.</p> <p>In light of this, we have some further concerns:</p>	<p>BNP - This is factually incorrect; CIL will not be an additional revenue. To ensure that planning obligations and CIL operate in a complementary way and to clarify the purposes of the two instruments, the CIL regulations scale back the way planning obligations operate. CIL will not replace planning obligations altogether as S106 contributions will still be needed to mitigate the impacts of some developments and remain the method by which affordable housing is secured as part of wider development proposals. The Regulations place limitations on the use of planning obligations in three respects:</p> <ol style="list-style-type: none"> 1. Applying the three tests on the use of planning obligations (as set out in Regulation 122) on a statutory basis for developments which are capable of being charged CIL; 2. Ensuring the local use of CIL and planning obligations does not overlap; and 3. Limiting pooled contributions from planning obligations towards infrastructure which may be funded in whole or part by CIL to five separate planning obligations. <p>The Regulation 123 List details the projects for which CIL will be used. For those items that are not considered to be infrastructure the Council is not restricted in terms of the numbers of obligations that may be pooled.</p>	None		
14	9	Thomas Eggar	ASDA	Draft Charging Schedule	<p>Concerns relating to change of use and conversion projects</p> <p>The Council appears only to have taken the economics of regeneration projects into account when considering the strategic development areas as otherwise the viability assessments do not appear to have given any weight to this consideration (particularly for retail developments).</p> <p>As you will be aware, Regulation 40 of the CIL Regulations only permits developers to deduct pre-existing floor space from the CIL calculation if it is 'in lawful use.' Lawful use is defined in Regulation 40 (10) and essentially requires part of a building to have been in use for a six month continuous period in the three years before the date of the planning permission permitting the development.</p> <p>However, many regeneration projects on brownfield land or town centres involve demolishing, converting or redeveloping buildings that have lain vacant for some time. This is particularly true of schemes which involve changes of use from employment land, where the fact that a unit has been vacant for a considerable time is often a key factor in the Council's decision to grant planning permission for the scheme.</p> <p>The Viability Study does not acknowledge that the economics of conversion schemes are very different to those of new build schemes. It is difficult to see how the Council can assess whether the imposition of CIL will put the majority of these schemes at risk without having considered its impact on their viability.</p>	<p>BNP - Changes of use and conversions do not create additional floorspace and are not liable to pay CIL.</p> <p>Further, the 2014 amendments to the CIL Regulations addresses the concerns relating to Regulation 40 regarding the vacancy period test for calculating the levy liability so that vacant floorspace can be offset in certain circumstances. That is, where a building that contains a part which has not been in lawful use for a continuous period of at least six months within the last three years, ending on the day planning permission first permits the chargeable development, the floorspace may not be offset.</p>	None		
14	10	Thomas Eggar	ASDA	Draft Charging Schedule	<p>ASDA's SUGGESTIONS</p> <ol style="list-style-type: none"> 1. Instalment Policy <p>We note that the Council intends on publishing a draft instalments policy for CIL alongside its Draft Charging Schedule. We endorse the Council's decision to introduce an instalment policy, as managing cash flow during development is often key in determining whether a scheme will be successfully delivered. However, we recommend that you also allow an instalments policy for payments below £20,000 to manage cash flow further.</p>	<p>The Council devised a draft Instalment Policy, which was consulted upon alongside the Draft Charging Schedule. CIL Regulations enable the Council to set an instalments policy, if they so wish. It is up to the Council to decide if, and how they wish to do this and any instalments policy can be changed or removed by the Council with at least 28 days notice. The Council will further consider the Instalments Policy prior to any CIL being implemented.</p>	None		
14	11	Thomas Eggar	ASDA	Draft Charging Schedule	<ol style="list-style-type: none"> 2. Exceptional Circumstances Relief <p>We note that the Council intends to adopt an Exceptional Circumstances Relief policy.</p> <p>We also endorse the Council's decision to introduce an Exceptional Circumstances Relief policy. By adopting Exceptional Circumstances Relief, the Council will have the flexibility to allow strategic or desirable, but unprofitable, development schemes to come forward, by exempting them from the CIL charge or reducing it in certain circumstances.</p>	<p>Noted. There are limitations on relief and this could mean introducing a blanket "exceptional circumstances relief policy" that would be open to all developments. Members have been against this approach in the past. However, as noted in the Draft Charging Schedule (page 4), the Council will further consider whether to adopt any CIL discretionary relief on the implementation of CIL.</p>	None		
14	12	Thomas Eggar	ASDA	Draft Charging Schedule	<ol style="list-style-type: none"> 3. Flat Rate Levy <p>Accepting for the purpose of this argument the premise that CIL is necessary for the purpose of funding Borough-wide infrastructure, a much fairer solution would be to divide the Council's estimate of total infrastructure costs over the charging period (and in this connection, it is important to remember that the Government's guidance as recorded in the National Planning Policy Framework is that only deliverable infrastructure should be included) by the total expected development floor space and apply a flat rate levy across the Borough and across all forms of development. That will have the least possible adverse effect upon the market for land and for development, and yet the greatest possible opportunity for the economy to prosper and thrive and for jobs to be created.</p> <p>The potential impact of a flat rate levy on the viability of those types of development which are not currently identified as viable could be balanced by the Council's implementation of Exceptional Circumstances Relief, as mentioned above.</p> <p>Consequently, reducing the levy proposed per square metre on retail and residential floor space would not result in a proportionate increase in the levy required on other forms of commercial or other development. However, applying the current proposed levy could run the risk of diminishing substantially the number of such retail stores built, with a consequential loss of employment opportunities and investment.</p>	<p>BNP - As previously identified, the CIL regulations set out that CIL rates have to be set in relation to viability - not the amount of money that is required to be collected to fund the necessary infrastructure. The presence of a funding gap is required to be demonstrated to confirm the necessity of the introduction of a CIL tariff not the magnitude of the charge.</p> <p>Further, it is highly unlikely that money raised by a CIL (even if a blanket charge over all development as suggested by ASDA) would be suitable to meet the entire funding gap identified. Additional funding would still be required to ensure the funding of necessary infrastructure to support the planned growth in the District.</p>	None		
14	13	Thomas Eggar	ASDA	Draft Charging Schedule	<ol style="list-style-type: none"> 4. Provision of Infrastructure as Payment in Kind <p>As stated above, the latest set of amendments to the CIL Regulations have now made it lawful for authorities CIL contributions to be paid by the provision of infrastructure in certain circumstances. Given that the provision of infrastructure is often key to unlocking unimplemented planning permissions and enabling developments, we would urge the Council seriously to consider adopting a policy to allow payment in kind in this manner.</p>	<p>Subject to relevant regulations, and at its discretion, an authority may enter into an agreement for a land payment to discharge part or all of a levy liability. Charging authorities may also enter into agreements to receive infrastructure as CIL payment however, any infrastructure provided in this manner cannot be infrastructure required to make a development acceptable in planning terms. The Council is considering the approach to the provision of infrastructure as Payment in Kind.</p>	None		
15	1	Heather Webb	Nene Valley Nature Improvement Area	Preliminary Draft SPD Open Space	<p>The recommended local accessibility standard for natural and semi-natural open space is based on the council's 2006 Open Space, Sport and Recreation Study (OSSR). Section 6.12 of the OSSR states that the 'Accessible Natural Greenspace Standard (ANGSt)...suggests that there should be at least 2ha of accessible natural greenspace per 1,000 population'. The March 2010 update to ANGSt in fact recommends that: 'Everyone, wherever they live, should have an accessible natural greenspace: Of at least 2 hectares in size, no more than 300 metres (5 minutes walk) from home; At least one accessible 20 hectare site within two kilometres of home; One accessible 100 hectare site within five kilometres of home; and One accessible 500 hectare site within ten kilometres of home; plus A minimum of one hectare of statutory Local Nature Reserves per thousand population.' The local standard of 1.3ha within 720m of home is therefore insufficient, especially considering that the emerging North Northamptonshire Joint Core Strategy includes the 2010 ANGSt thresholds.</p>	<p>Comments noted. It should be highlighted that the current preliminary draft SPD is based on standards developed through the 2006 OSSR. Those standards include an accessible greenspace no more than 240m from home (5 minute walk) standard, whereas the more recent 2010 ANGSt thresholds propose a slightly brisker 5 minute walk 300m standard. The 2006 OSSR standard therefore provides for greater accessibility in this respect. However, these standards will be reviewed when the Consultation Draft document is prepared.</p>	Standards will be reviewed when the Consultation Draft SPD is being prepared		

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16	1	David Bainbridge, Bidwells	Davidsons Developments Limited	Draft Charging Schedule	<p>1. Object to the CIL rate of £50 in all other areas for residential.</p> <p>2. Object to the CIL rate of £20 for offices, industrial and warehousing (B1, B2 & B8).</p> <p>3. Object to the CIL rate of £100 for convenience based supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres).</p> <p>4. Object to the comments on striking an appropriate balance.</p> <p>5. Object to assumptions and inadequate explanation in the viability study.</p> <p>1. The Viability Study recommends a nominal rate of no more than £50 as a maximum CIL charge and as a proposed CIL rate after buffer. There is inadequate explanation in the DCS as to why the maximum and preferred rate has been selected when a lower rate could have been selected.</p> <p>2. There should be acknowledgement that levying a rate against offices, industrial and warehousing (B1, B2 & B8) will in part or in whole be an additional cost to development of such employment generating uses. The Viability Study recommends a nil or nominal rate of no more than £20. There is inadequate explanation in the DCS as to why the maximum and not preferred rate of £20 has been selected when a nil or lower rate could have been selected. The Viability Study acknowledges that speculative development of B1, B2 and B8 uses is unlikely to generate positive residual land values. Whilst the Viability Study points to a number of planning applications for such B-uses floor space and that some of the planning permission have been implemented this is not evidence that levying a £20 rate will not harm development viability as it will worsen an already negative position. There is no evidence of an impact assessment of the rate and yet this should have been undertaken.</p> <p>3. The rate of £100 for convenience based supermarkets and superstores and retail warehousing will in part or in whole be an additional cost to development of such employment generating uses. Whilst it is accepted that the rate of £100 is lower than the maximum of £141 identified in the Viability Study the rate of £100 is as per the suggestion by the consultants. Notwithstanding this there is no evidence as to why such uses and not for example comparison retailing should be required to pay the rate other than viability. There is no assessment of impact on future development.</p> <p>4. The first bullet point under the comments about striking an appropriate balance refers to the desirability of funding from CIL (in whole or part) the estimated total cost of infrastructure. This is not accurately based on the Regulations which state at regulation 14(1) that an appropriate balance should be found on the actual and expected estimation of the total cost of infrastructure. The omission of the word 'actual' implies that the costings are all estimates.</p> <p>5. Despite consultants assumption it is our experience that most landowners are not willing to accept less than £200,000 per acre on a net basis and some land owners require more. There is inadequate explanation as to how the consultants have accounted for development costs comprising primary education provision and/or contributions and localised S278 works. The concern is that the consultant's costings are an under-estimate and so hold implications for development viability.</p>	<p>BNP - The CIL Guidance identifies that charging authorities do not have to set a nil rate, they can set a low rate (Paragraph: 021 Reference ID: 25-021-20140612), which was proposed as £30 per sq m- £50 per sq m. It is the charging authority's prerogative to establish the appropriate balance between raising money from CIL to deliver much needed infrastructure to support development in their area and not putting development across the charging authority area at risk. In this regard it is noted that the CIL Guidance identifies (Paragraph: 019 Reference ID: 25-019-20140612) that 'there is no requirement for a proposed rate to exactly mirror the evidence... There is room for some pragmatism.'</p> <p>The rates proposed are of a nominal level and the CIL charge proposed is unlikely to be the determining factor in relation to viability and to have an impact on a developer's decision making as to whether to bring forward a development or not i.e. the proposed nominal rate charges equate to no more than 2% of the gross development costs. As the rates are nominal they do not require a buffer i.e nominal rate not maximum rate.</p> <p>The viability demonstrates that convenience based supermarkets and superstores and retail warehousing can support a maximum CIL rate of £141, as identified in Bidwells representation which is proposed as £100 per sq m after taking into account a buffer. The viability characteristics of convenience retail are different to comparison retail uses, as set out in our response to Thomas Eggar's report under "point 4. The proposal to split convenience and comparison retail development". As a result, our appraisals show that comparison retail cannot support a CIL rate in line with that proposed for convenience retail uses and to set a higher CIL rate could prevent future development coming forward.</p> <p>The benchmark land value in the viability study is based on a per gross acre scenario- therefore comments are unfounded. Notwithstanding, no evidence has been provided to assert that landowners would be willing to accept less than £200,000 per gross acre. Development costs for primary education/ S278 works have been derived using historic planning applications received by the Council. See our response to Thomas Eggar under 3 The financial assumptions and viability assessments contained in the Council's Viability Study for further comment with regards to the residual S106.</p>	None		
16	2	David Bainbridge, Bidwells	Davidsons Developments Limited	CIL R123 List	<p>1. It is requested that any changes to the R123 List is made publically available for comment prior to the examination into CIL.</p> <p>2. Object to the status of some of the infrastructure on the R123 List in the DCS.</p> <p>3. Object to the timing of provision of some of the infrastructure on the R123 List in the DCS.</p> <p>4. Object to the inadequate explanation of the proposed status of primary school education funding from development.</p> <p>1. It is requested that any changes to the R123 List is made publically available for comment prior to the examination into CIL. This is so stakeholders can be made aware of the proposed changes and where relevant comment on this in the context of the examination into CIL.</p> <p>2. Object to the status of some of the infrastructure on the R123 List in the DCS. The A6 Chowns Mill / A45 Skew Bridge junction is a cost estimate of £9m in Appendix 1 of the DCS Background Document. Under Appendix 3 of the CIL Infrastructure Document there is no start date for the works and yet there is an end stated as 2021. There is inadequate explanation of the status of this scheme and whether it will be delivered in the time period to 2021. There are a number of infrastructure projects which appear to be commercial operations charging for use of a service albeit some may be not for profit and/or charitable organisations. The status of including such infrastructure on the R123 List is questionable as CIL payments will be directed to support a commercial organisation which charges for use of the service. Some of the infrastructure projects are shown as being part funded from CIL in the District in the CIL Infrastructure Document but there is inadequate explanation of the form of sharing cost with other stakeholders including Northamptonshire County Councils and other Councils in North Northamptonshire.</p> <p>3. Object to the timing of provision of some of the infrastructure on the R123 List in the DCS. Appendix 3 of the CIL Infrastructure Document does not state that all of the infrastructure will be delivered within the time period ending 2021 or when all of the infrastructure works will start. This is inadequate as it does not demonstrate delivery within the proposed timescale.</p> <p>4. Object to the inadequate explanation of the proposed status of primary school education funding from development. Secondary school provision, including middle and upper schools (unless a new school is required by a specific site) is included on the R123 List however the status of primary school education funding is not stated. It is assumed from its omission on the R123 List that primary school education provision comprising provision on a development site will be covered by S.106 and not CIL and it is assumed that funding towards provision of primary school education arising from development but to be used elsewhere to the development site will be covered by S.106 and not CIL. It is requested that further detailed and adequate explanation is provided on this. Section 6.2 of the CIL Infrastructure Document make a brief statement that primary schools will be funded through S.106 contributions but this does not adequately cover the various means of provision of primary school education arising from development..</p>	<p>The Council will follow the CIL Regulations, in terms of what they are required to do. The Council is required to provide a draft R123 list for the Examination. Consultation is required should any changes be made to a R123 list, on a proportional basis. The issue of Chowns Mill is currently the subject of legal advice. Bidwells does not specify which item(s) on the draft R123 List they believe to support a commercial organisation. If this comment relates to items such as Country Park expansion, for example where the County Council make a parking charge to use them, in a district without any national parks etc, country parks provide a key recreational/ leisure facility for the local population. Information on start and end dates in the Infrastructure Document is based on best available information. There is no legal requirement to give precise dates. In a few cases, a start date has not yet been set by the relevant organisation leading that project and therefore cannot be stated. The R123 list has to specify what could be funded via CIL and does not have to list those items that are not to be funded by CIL, as the complimentary S106 SPD provides that role.</p>	None		
16	3	David Bainbridge, Bidwells	Davidsons Developments Limited	Draft Charging Schedule	<p>1. Support recognition of the need for an appropriate instalment policy.</p> <p>2. Object to the amount of up to £20,000 for single instalment payment as this amount is too high.</p> <p>3. Object to the number of instalments proposed.</p> <p>4. Object to the inadequate explanation as to why the Draft Instalment Policy will not be the subject of examination.</p> <p>1. Support is expressed for the recognition of the need for an appropriate instalment policy as timing of payment of CIL has a significant effect on development viability.</p> <p>2. The amount of up to £20,000 for single instalment payment is too high as for smaller developments this could have an affect on development viability. It is requested that consideration is given to a lower threshold.</p> <p>3. An objection is raised to the number of instalments proposed because this reaches a maximum number of 3 instalments and this could affect development viability. It is requested that an additional number of instalments is included.</p> <p>4. An objection is raised to the inadequate explanation in the DCS as to why the Draft Instalment Policy will not be the subject of examination.</p>	<p>BNP - note that the Council's Instalments Policy is not a matter that the Examiner is required to consider as part of the examination of the Council's charging schedule as identified in the CIL Regs and Guidance and further that the Council is able to amend their instalments policy at any point in time. The CIL Guidance 2014 identifies that, 'If the charging authority wishes to publish a new instalments policy, or withdraw the policy, it must give at least 28 days' notice before the new policy takes effect and/or old policy is withdrawn.'</p>	None		
16	4	David Bainbridge, Bidwells	Davidsons Developments Limited	Draft Charging Schedule	<p>1. Object to the development plan status underpinning the proposed introduction of CIL.</p> <p>2. Object to the inadequate explanation of CIL administration cost.</p> <p>3. Object to the inadequate explanation of the role of the New Homes Bonus.</p> <p>1. The North Northamptonshire Core Spatial Strategy was adopted prior to the National Planning Policy Framework. There is no evidence as part of the consultation that the CSS has been found consistent, in part or in whole, with the NPPF. It is a requirement under paragraph 215 for an assessment of consistency against the NPPF. The absence of such an assessment in the context of the proposed introduction of CIL brings into question the status of proposed CIL. The Rural North, Oundle and Thrapston Plan does not cover the entire District and the few saved policies of the 1996 Local Plan are not up to date relevant development plan policy.</p> <p>2. Regulation 61(3) of the 2010 Regulations states where there is no separate collecting authority that the charging authority can charge no more than 5% of the CIL collected over years 1 to 3 and from year 4 onwards no more than 5% of the CIL collected in each year can be charged in that year. The current explanation in the DCS is inadequate.</p> <p>3. An objection is raised to the inadequate explanation of the role of the New Homes Bonus. NHB sits alongside the planning system to help deliver the vision and objective of the community and the spatial strategy for the area. NHB is intended to assist with issues such as service provision and provision of infrastructure and therefore NHB may be used to off-set CIL in part. At an estimate rate of delivery of 400 dwellings per year NHB can and will be delivering significant funding to East Northants Council in part and also to Northamptonshire County Council. Greater clarity is required to demonstrate what amount of NHB funding will be directed to infrastructure on the R123 List so as to properly understand the reasoning for CIL.</p>	<p>The Core Spatial Strategy and Rural North, Oundle and Thrapston Plan have both been tested for compliancy against the NPPF. How the CIL will be collected/administered will be for members to decide in due course. The administration cost used is 5% for the purposes of calculations. New Homes Bonus is not ring fenced and there are no stipulations as to what precisely it should be spent on. However, at ENC members approved at committee that a proportion of the NHB be spent on local community projects and priority be given to projects in areas where growth has happened. The NHB fund is just one source of funding and this funding varies from year to year. Member priorities for NHB funding may obviously change. Should the Council go ahead with CIL in due course then it will no doubt review again what its priorities are.</p>	None		

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16	5	David Bainbridge, Bidwells	Davidsons Developments Limited	Draft Charging Schedule	<p>1. Support recognition of mandatory relief under Regulation 43 of the Regulations but ask for consideration that low cost market housing is also entitled to benefit from relief from CIL.</p> <p>2. Request that relief for exception circumstances is made available in the District under Regulation 55 of the Regulations.</p> <p>1. The recognition of mandatory relief under Regulation 43 of the Regulations is supported. It is requested that because of the lower margins on low cost market housing which can be an appropriate product on some sites and in some locations in the District that low cost market housing is entitled to benefit from relief from CIL.</p> <p>2. It is requested that relief for exceptional circumstances is made available in the District under Regulation 55 of the Regulations. This is because there are likely to be sites that are the subject of a planning obligation under Section 106 of the Town and Country Planning Act 1990 where the Charging Authority considers the cost of complying with the planning obligation is greater than the chargeable amount payable under CIL and hence to apply the CIL charge would have an unacceptable impact on the economic viability of the development. It is considered a fundamental requirement for relief for exceptional circumstances to be made available in the District under Regulation 55 of the Regulations.</p>	<p>BNP - The Council does not currently recognise low cost market housing as an affordable housing tenure, as there is no mechanism in place to retain these units as affordable housing.</p> <p>ENC - Mandatory and discretionary exemptions and reliefs from CIL are set out in the CIL regulations. Individual charging authorities are not able to set additional reliefs. However, as noted in the Draft Charging Schedule (page 4), the Council will consider whether to adopt exceptional circumstances relief on the implementation of CIL.</p> <p>BNP - Notwithstanding this, BNP/PPRE note that it is not a matter that the Examiner is required to consider as part of the examination of the Council's charging schedule and further that the Council is able to amend their exemptions policy at any point in time.</p>	None		
17	1	Stephen Ashworth, Dentons	LXB	BNP Paribas Viability Study	<p>1 Viability and Differentiation</p> <p>The BNP viability analysis is, necessarily, broad brush. Indeed it is remarkably similar to the material that they have used elsewhere. It is not sufficiently "fine grained" to justify differentiation between different sub-categories of retail use. If the Council want to maintain different retail related CIL rates then further evidence will be required. The BNP evidence was prepared before the 2014 CIL Regulation amendments and addressed the requirements as they then stood. The requirements have since changed and, unsurprisingly, the original evidence does not support the present approach.</p> <p>The overall approach to differentiation, the evidence required to support differentiation and the definitions used in the CIL charging schedule should all be reviewed.</p>	<p>BNP - The CIL regulations enable local authorities to set differential rates (including zero rates) for different zones within which development would take place and also for different types of development. The amendment to the Statutory CIL Guidance in December 2012 clarified that CIL Regulation 13 permits charging authorities to levy 'differential rates by reference to different intended uses of development provided that the different rates can be justified by a comparative assessment of the economic viability of those categories of development. The definition of "use" for this purpose is not tied to the classes of development in the Town and Country Planning Act (Use Classes) Order 1987, although that Order does provide a useful reference point.' (Para 35). The February 2014 amendments to the CIL Regulations further extends the ability to set differential rates in relation to, 'scales of development'.</p> <p>However we would also highlight that other charging authorities have successfully adopted differential rates by reference to the scale and type of retail development within their charging schedules e.g. Bedford BC, LB Lambeth and Wycombe DC. Further, the inspectors report for the Wycombe CIL examination (10/09/12) explicitly stated that 'There is nothing in the CIL regulations to prevent differential rates for retail developments of different sizes, provided they are justified by the viability evidence and differing retail characteristics or zones.'</p> <p>It is acknowledged that size does not necessarily result in the higher values generated by convenience based supermarkets and superstores and retail warehousing uses. Rather, it is a combination of factors including:</p> <p>1 The availability of car parking;</p> <p>2 The operational economics of supermarkets/superstores (these uses are known to be efficient at generating volume sales whilst having low operating costs);</p> <p>3 The rents that retailers are willing to pay to occupy these units tend to be high (particularly with regard to comparison retailing as these locations will command prime rents in the area);</p> <p>4 The value which the investment market ascribes to such units is high. This is due to such units being occupied by operators with greater covenant strength, which results in lower yields being applied; and</p> <p>5 Such large developments are also likely to come forward on sites which have lower existing use values i.e. a large majority of large retail units have historically been developed on former industrial sites and as a result a lower benchmark land value is achieved, which results in a higher surplus and consequently a potential for a higher CIL rate.</p> <p>We understand from our research using databases such as our in house comparable database, Focus and EGI and discussions with active local agents as well as our in house valuation team who undertake valuations regularly for major supermarkets and retail warehouses that yields achieved on units occupied by the national occupiers are keener than those achieved on units occupied by independent local tenants. Yield differentials have a significant bearing on the outcome of a development appraisal. As highlighted above, due to the covenant strength of the large national retailers, investment yields are lower, resulting in a higher capital value.</p> <p>BNP Paribas Real Estate has also undertaken a review of convenience based stores in and around the District using the VOA business rates website, which has identified that units of this nature, which attract the national occupiers are in general larger than the Sunday Trading Law threshold of 280 square metres. The identified local operators (including local franchisees) of such uses are generally located within units smaller than this threshold. This is also the Council's experience of such developments when considering planning applications submitted in the District.</p>	None		
17	2	Stephen Ashworth, Dentons	LXB	Preliminary Draft S106 SPD/ Background Document	<p>2 Infrastructure</p> <p>It is useful to see the Council's emerging draft SPD on section 106 obligations. This makes it clear that the nature of requested section 106 obligations will change, although there are hints that some significant elements of infrastructure will be treated as "on site".</p> <p>There will need to be further work on the SPD to make sure that the level of overlap between CIL payments and section 106 obligations is kept to a bare minimum. At the moment the analysis of the infrastructure needed to support development does not appear to be complete. There is an overlap between costs that will be caught by section 106 agreements and that which CIL is being asked to fund.</p>	<p>BNP - As at April 2015 the Charging Authority will be required to scale back the section 106 requirements for site mitigation purposes only. The Charging Authority is in the process of working up its Regulation 123 list and whilst we understand that there is flexibility around what may be funded through CIL and what may be funded through planning obligations, the Council intends to be as transparent and reasonable as possible in the presentation of the regulation 123 List in due course.</p>	None		
17	3	Stephen Ashworth, Dentons	LXB	Draft Charging Schedule	<p>3 CIL rates</p> <p>It would be helpful, just for clarity, to confirm that uses outside the identified categories in the CIL charging schedule will not be charged. This is implicit in the schedule, but the inclusion of nil rates for a couple of use categories raises doubt.</p>	<p>BNP - We can confirm that uses outside the identified categories will not be charged</p>	Footnote text to be included to clarify		
17	4	Stephen Ashworth, Dentons	LXB	Draft Charging Schedule	<p>4 Additional issues</p> <p>I raise the following points because, although they are not technically part of the CIL charging schedule consultation exercise, the Council's approach to them will have an effect on the operation of CIL.</p> <p>(a) Discretionary relief</p> <p>The Council should adopt a discretionary relief policy. Given the potentially extensive nature of continuing section 106 obligations, this is an important "safety valve".</p> <p>(b) Instalments</p> <p>The proposed instalments policy is not generous, particularly for large schemes with significant GIL liabilities. Longer periods of time should be allowed for schemes that have large liabilities.</p> <p>(c) Regulation 123 infrastructure list</p> <p>I recognise that the infrastructure list can only ever be an indication of the infrastructure that will be funded by CIL. It would, however, be helpful to have a clear policy statement about the priority that will be given to some of the specified infrastructure items. In particular, if significant amounts of CIL are being generated in a particular area, then priority should be given to infrastructure provision within that area.</p> <p>(d) Section 73 applications</p> <p>Planning permissions granted before the adoption of a CIL charging schedule do not give rise to chargeable development. In many cases, schemes need to change, and it would be helpful for the Council to acknowledge that it will, within reason, accept section 73 applications to amend planning consents. If this is not done, then existing planning obligation arrangements will need to be unpicked to reflect the imposition of a CIL liability.</p> <p>(e) Community share</p> <p>It would be helpful if the Council indicated that they will try to ensure that the "community share" of CIL is spent on infrastructure within the regulation 123 list. If that does not happen, then the infrastructure funding gap will be greater.</p>	<p>a) Noted. b) The Council devised a draft Instalment Policy, which was consulted upon alongside the Draft Charging Schedule. CIL Regulations enable the Council to set an instalments policy, if they so wish. It is up to the Council to decide if, and how they wish to do this and any instalments policy can be changed or removed by the Council with at least 28 days notice. The Council will further consider the Instalments Policy prior to any CIL being implemented. If a development is a phased development ie it has been established during determination of the planning application that it will be phased, each phase will be able to take advantage of the Instalment Policy.</p> <p>c) Comments noted. Members will have to decide what infrastructure receives priority and this priority may obviously change. It would therefore be difficult to make such a statement. d) As per the CIL regulations, section 73 applications will only attract CIL on new additional floorspace over and above that permitted by the extant consent. Nothing within the CIL regulations will affect the ability of an applicant to submit a section 73 application.</p> <p>e) It is up to Town and Parish Council's to decide how they wish to prioritise how their proportion of CIL is spent</p>	None		

ENC - Responses to the PDCS

18	1	Lizzie Cullum, Savills	Persimmon Homes and Redrow Homes	Draft Charging Schedule	Change in Regulations regarding the balance between the funding of infrastructure from CIL and the impact on the economic viability of development across the area. The Regulation previously aimed to strike what appears to the Charging Authority to be an appropriate balance... The onus has shifted away from being a matter of opinion to a matter of fact. This should be considered by ENC further, in the context of the representations received, prior to submitting the Draft Charging Schedule for Examination. CIL must not threaten the delivery of the development plan. The rate of CIL is therefore a significant consideration and should be set to facilitate development.	BNP - Notwithstanding this, BNPPRE note that it is not a matter that the Examiner is required to consider as part of the examination of the Council's charging schedule and further that the Council is able to amend their exemptions policy at any point in time.	None		
18	2	Lizzie Cullum, Savills	Persimmon Homes and Redrow Homes	Draft Charging Schedule	Part 1- Implications for delivery of current affordable housing policy is of concern as it is likely that in some locations the CIL rate combined with policy costs would render some schemes unviable, and as CIL is non-negotiable, the delivery of affordable housing is jeopardised. The Council may say that in those cases a viability case may be made at the development control stage, however, this doesn't lead to a proficient planning system, nor would it assist with the delivery of affordable housing. Savills research supplied into viability of the proposed £50 CIL rate. Risk of rendering a significant proportion of schemes unviable.	BNP - We would like to reiterate that it is not the CIL that would render the scheme unviable, as the CIL accounts for less than 2% of total development costs. It is noted that this is lower than the standard market assumption of a 5% contingency for build costs. Such development would be considered inappropriate to come forward unless they are sustainable and in this regard an allowance towards CIL will assist in ensuring that as and when development comes forward it will contribute towards infrastructure that will support the development. In instances where viability is challenging, According to the Harman Group "The planning authority needs to strike a balance between the policy requirement that it deems necessary in order to provide for sustainable development and realities of economic viability. Except for the highest value areas, it is unlikely that all policy aspirations will be capable of being realised." In order to strike such balance, the Council may take a view on the level of affordable housing achievable in line with policy 15 of the adopted (June 2008) Joint Core Strategy. At £50 psm the proposed CIL charge proposed is nominal and in this regard unlikely to be the determining factor in relation to viability and to have an impact on a developer's decision making as to whether to bring forward a development or not i.e. the proposed charges equate to no more than 2% of scheme costs. Therefore a CIL Charge of this level is hardly likely to threaten the delivery of the Local Plan, particularly as CIL is not an entirely new charge and we would highlight that Savills have not provided any evidence that would demonstrate that a cost that amounts to less than 2% of development costs would threaten the economic viability of development across the Council's area and therefore the delivery of the Local Plan. As identified in the report, the viability appraisals identify that in relation to residential developments elsewhere ('all other areas') are unviable in many circumstances we would highlight that it is not CIL that is making development unviable. Such developments will require changes in sales values and build costs, which will have a larger impact on viability to improve before they come forward. We note that the LB Newham CIL Examiner identified in his report that, 'if a scheme is not viable before CIL is levied it is unlikely to come forward and CIL is, therefore, unlikely to be a material consideration in any development decision'. This is particularly pertinent in East Northamptonshire, where should a development come forward, the CIL charges proposed are of a nominal level and therefore they are unlikely to have an impact on a developer's decision making as to whether to bring forward a development or not. It is also worth noting that CIL is not a wholly new charge; it will replace the majority of S106 and S278 contributions previously required. It would be unreasonable to expect developments not to contribute towards the delivery of necessary infrastructure required to support the growth envisaged by the Local Plan and without such infrastructure development would not be sustainable. In this regard the Council considers that it has struck an appropriate balance between needing to raise money to fund infrastructure whilst not putting the delivery of their Local Plan at risk, as required by Regulation 14. As identified above CIL should not be regarded simply as a cost on top of current development costs. S106 contributions are to be scaled back from April 2015 and CIL is replacing a S106 charge that was previously sought on sites, the only difference being that this element would no longer be negotiable and taking a practical view of the viability position of sites, going forward other policies may need to flex to accommodate this in certain circumstances. This is the current position and we understand that the Council has in some recent instances accepted a reduced affordable housing provision based on overall scheme viability. It is noted that not all sites in the District are capable of delivering the full policy levels of affordable housing and this is the Council's experience on the ground. In this regard we would highlight that the CIL Examiner's report for the LB Newham's CIL Charging Schedule acknowledged at paras 15 and 16 that: 'The Core Strategy was adopted in January 2012. Policy H2 was supported by an Affordable Housing Economic Viability Study and seeks the provision of 35 to 50% affordable housing on sites with a capacity of 10 units or more. However, the Council concede that, at present, the majority of new schemes are unable to deliver affordable housing at the level required by Policy H2. According to the Viability Study, at 35% affordable housing, most sites are not viable regardless of CIL. As stated in the Viability Study, if a scheme is not viable before CIL is levied it is unlikely to come forward and CIL is, therefore, unlikely to be a material consideration in any development decision. Consequently, the Viability Study, sensibly in my view, did not factor in unviable schemes in recommending appropriate rates. The Viability Study is based on 35% provision of affordable housing.' In BNPPRE's experience the proposed residential CIL rates will be a marginal factor in a scheme's viability representing an opportunity cost of no more than 4% affordable housing. The quantum of affordable housing delivered on a site has a much greater impact on viability. In light of this BNP Paribas Real Estate consider that even setting a nil rate of CIL would not ensure that the Council achieves its target level of affordable housing on every site in the Council's area. Further, we are of the opinion that this approach would also not strike an appropriate balance between the delivery of development and the provision of infrastructure to support the growth envisaged in the adopted and emerging Local Plan. The delivery of affordable housing in a local authority area is based on all sites delivering the maximum possible amount of affordable housing. This means that delivery of affordable housing on some sites will exceed the target, including 100%, whilst others will only be able to support levels lower than the target. This is due to all sites having different viability characteristics, and as such the ability to deliver affordable housing will differ from site to site and potentially even from scheme to scheme on a particular site.	None		
18	3	Lizzie Cullum, Savills	Persimmon Homes and Redrow Homes		Part 2- CIL rates and viability - raise various issues with viability study. ENC required to use "appropriate available evidence" Values	BNP - We consider that the study adheres with amended 2014 regulations as set by the DCLG, and that the evidence base upon which the proposed draft CIL charging schedule has been formulated upon contains the most appropriate available evidence. Benchmark Land Value- The BLV refers to the Gross acre of the site. Professional Fee's - We note that no evidence has been submitted by Savills to substantiate that their assertion that a 10% allowance is too low. In BNPPRE's experience professional fees range between 8% and 12%, depending on the nature of the site. We have allowed for 10% professional fees which we consider to be a reasonable assumption for an area wide viability assessment, which has been accepted at numerous Examinations. The Council have also advised that in a couple of instances the level of professional fees that have been stated in site specific viability assessments submitted in the District have been lower than 10%. We would highlight that the 5% contingency allowance has also been made on top of the professional fees. Developers Profit- BNPPRE strongly disagrees, the profit margin relates to risk. The approach taken reflects the reduced risk associated with developing affordable housing as any risk associated with take up of intermediate housing is borne by the acquiring RP, not by the developer. A reduced profit level on the affordable housing reflects the GLA 'Development Control Toolkit' guidance and the Homes and Communities Agency's guidelines in both its Economic Appraisal Tool (EAT) and Development Appraisal Tool (DAT). We would also highlight that this approach has been accepted at numerous CIL examinations and site specific assessments that BNPPRE has undertaken. Whilst Savill's have commented that no alternative viability evidence has been prepared by BNP, we note that no evidence has been submitted which confirms that the inputs adopted by BNP PRE in the viability study are inappropriate. We would request that Savills and their Clients provide their evidence to substantiate their assertions in relation to aspects they have highlighted.	None		
18	4	Lizzie Cullum, Savills	Persimmon Homes and Redrow Homes	Draft Charging Schedule	Part 3- Installments policy - Welcome policy but a max. deferment of 540 days is insufficient on larger sites with delivery over an extended period. Note that current BNP appraisals do not mirror draft instalments policy. Recommend the viability testing does not include phased payments (para. 1.38 of response).	The Council devised a draft Instalment Policy, which was consulted upon alongside the Draft Charging Schedule. CIL Regulations enable the Council to set an instalments policy, if they so wish. It is up to the Council to decide if, and how they wish to do this and any instalments policy can be changed or removed by the Council with at least 28 days notice. The Council will further consider the Instalments Policy prior to any CIL being implemented. If a development is a phased development ie it has been established during determination of the planning application that it will be phased, each phase will be able to take advantage of the Instalment Policy.	None		
18	5	Lizzie Cullum, Savills	Persimmon Homes and Redrow Homes	Draft Charging Schedule	Interpretation of viability results - question how nominal rate of £50 rate can be justified (para. 1.39 -1.47 of response).	BNP - As set out above, the CIL Guidance identifies that charging authorities do not have to set a nil rate, they can set a low rate (Paragraph: 021 Reference ID: 25-021-20140612), which was proposed as £30 per sq m- £50 per sq m. It is the charging authority's prerogative to establish the appropriate balance between raising money from CIL to deliver much needed infrastructure to support development in their area and not putting development across the charging authority area at risk. In this regard it is noted that the CIL Guidance identifies (Paragraph: 019 Reference ID: 25-019-20140612) that 'there is no requirement for a proposed rate to exactly mirror the evidence... There is room for some pragmatism.' The rates proposed are of a nominal level and the CIL charge proposed is unlikely to be the determining factor in relation to viability and to have an impact on a developer's decision making as to whether to bring forward a development or not.	None		
18	6	Lizzie Cullum, Savills	Persimmon Homes and Redrow Homes	Draft Charging Schedule	Viability cushion - recommend one be incorporated into benchmark land value or elsewhere in the assessment process (para 1.48- 1.54 of response).	BNP - The CIL Regulations are to ensure that the CIL rate adopted is not set at the margin of viability i.e. charging authorities are required to build in an appropriate buffer to allow for differences between sites coming forward will ensure that development can viably come forward. We note that there is no buffer prescribed in the guidance, and the buffer adopted is a decision to be made by the Local Authority. Regulation 14 state that the CIL charge 'must strike what appears to the charging authority to be an appropriate balance between' 'the desirability of funding infrastructure from the levy and 'the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area'. In this regard the Council deem a 30% buffer to be appropriate and in accordance with viability. There is no need for a buffer on the BLV as the methodology allows for buffer on these rates.	None		
18	7	Lizzie Cullum, Savills	Persimmon Homes and Redrow Homes	BNP Paribas Viability Study	S106 assumptions - historic S106 is not broken down to enable comparison costs per unit. No commentary explaining how BNP derived figures in viability study (para. 1.58 - 1.59 of response).	BNP - Advice from the Council whom have derived Residual S106 using historic residual S106 has been derived using historic planning applications received by the Council. See our response to Thomas Eggar under 3 <i>The financial assumptions and viability assessments contained in the Council's Viability Study</i> (comment no. 14.4) for further comment with regards to the residual S106.	None		
18	8	Lizzie Cullum, Savills	Persimmon Homes and Redrow Homes	Draft Charging Schedule	ENC should consider providing details of how Payments in Kind may work (para. 1.60-1.62 of response)	Subject to relevant conditions, and at its discretion, an authority may enter into an agreement for a land payment to discharge part or all of a levy liability. Charging authorities may also enter into agreements to receive infrastructure as payment. The Council is considering the approach to the provision of infrastructure as Payment in Kind.	None		

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18	9	Lizzie Cullum, Savills	Persimmon Homes and Redrow Homes	Draft Charging Schedule	Reviewing CIL - suggest ENC monitor on a 6 monthly basis and publish e.g on website.	To ensure that the levy is open and transparent, charging authorities must prepare short reports on the levy for the previous financial year which must be placed on their websites by 31 December each year. They may prepare a bespoke report or utilise an existing reporting mechanism, such as the annual monitoring report which reports on their development plan	None		
19	1	Ziyad Thomas, The Planning Bureau	Churchill Retirement Living Ltd and McCarthy and Stone Retirement Lifestyles Ltd	Draft Charging Schedule	<p>McCarthy & Stone Retirement Lifestyles Ltd. provided commentary on the Preliminary Draft Charging Schedule in December 2012 in which we expressed our concern that the emerging CIL could prohibit the development of specialist accommodation for the elderly at a time when there is an existing and urgent need for this form of development. Notably we raised concerns as to how specialist accommodation for the elderly differs from general needs housing through key issues including, amongst other things, communal floorspace built to a higher specification, a slower sales rate and higher empty property costs. On this basis we respectfully requested that a specific development scenario for sheltered accommodation be carried out for this form of development.</p> <p>In response to our representation we note that the Council has provided a separate CIL rate for "Care homes, Extra Care and other residential institutions" based on the viability evidence provided by BNP Paribas.</p> <p>We commend the Council's considered response to our objection and the willingness to test and ensure that specialist accommodation for the elderly remains deliverable under the proposed CIL regime.</p> <p>We do note that in both the BNP Paribas Viability Study and the Council's Summary of Responses to the Preliminary Draft Charging Schedule that reference is made to the inability of retirement housing, in addition to Care Homes and Extra Care accommodation to support CIL. Representation 14.6 from the Summary of Responses states:</p> <p>'BNP PRE undertook viability assessments of such accommodation (Care homes, Extra Care housing, retirement housing and other residential institutions). Accommodation for the elderly have constraints on viability such as a slower sales rate and requirement for communal facilities thereby increasing the gross to net ratio of such schemes to 70% as identified by McCarthy and Stone. The viability report identified that such uses are unlikely to be sufficiently viable to absorb any CIL contributions and as such a nil or nominal rate for such uses is proposed. See also response to comment 14.1' (emphasis own)</p> <p>Assume that retirement housing is included within the "Care homes, Extra Care and other residential institutions" nil CIL charging rate as detailed on the Draft Charging Schedule and would therefore appreciate its inclusion into the wording of the Charging Schedule for clarification.</p>	<p>BNP - Retirement housing can have a different viability characteristic to normal housing if there are area communal facilities provided as part of the development as this is additional floorspace that needs to be built, but does not actually generate any revenue. A footnote will be provided to clarify this:</p> <p>"Dwelling units classified as C2 will qualify together with C3 units where the units directly benefit from communal facilities comprising 10% or more of the total gross floorspace"</p>	Provide footnote text		
LATE RESPONSES									
20		Penny Mould	Northamptonshire County Council	draft R123 List	Northamptonshire Highways support the Highways/Transport and Public Realm schemes that relate to town centre improvements within East Northamptonshire towns, as presented in the draft R123 list. However, the authority does not support the inclusion of Chowns Mill improvements within the list. The reasons for not including Chowns Mill improvements within the R123 list is twofold, as the CIL receipts for East Northamptonshire will not be insufficient to finance the scheme and inclusion in the list will limit the level of developers' contributions that could be collect towards the scheme. It is evident from the provisional modelling work undertaken in the Rushden Study that improvements to this roundabout will be necessary to mitigate the traffic impacts from the Rushden East SUE, therefore the Chown Mill improvements will be reliant on developers contributions from Rushden East SUE to enable its delivery.	Discussions are currently taking place with Northamptonshire Highways about these issues. It should also be noted that Rushden East does not form part of the current adopted Local Plan and is expected to form part of the emerging new Local Plan, currently in preparation. ENC are currently awaiting legal advice on whether CIL and S106 can be collected for specific projects and types of projects within the same category, therefore a full response cannot be provided at this stage to this response.	None at present		
21			Bidwells		Request received as to whether late representations could be made for a client	Advised deadline closed and no further comments could be accepted	None		
22			Environment Agency		No comments. Welcome discussions initiated by authority to ensure CIL process is robust and effective. Aware that charges from CIL will help fund a specific range of needs for community development, of which environmental infrastructure is a vital part. Keen to ensure that the current list of projects is up to date and mutually beneficial to a wide multiple stakeholders.	Noted	None		